

Title 8 California Code of Regulations
Chapter 4.5. Division of Workers' Compensation
Subchapter 1. Administrative Director -- Administrative Rules
Article 3.5. Medical Provider Networks

[Section 9767.1 through Section 9767.2 will not be amended.]

Section 9767.3 Application for a Medical Provider Network Plan

(a) As long as the application for a medical provider network plan meets the requirements of Labor Code section 4616 et seq. and this article, nothing in this section precludes an employer or insurer from submitting for approval one or more medical provider network plans in its application.

(b) Nothing in this section precludes an insurer and an insured employer from agreeing to submit for approval a medical provider network plan which meets the specific needs of an insured employer considering the experience of the insured employer, the common injuries experienced by the insured employer, the type of occupation and industry in which the insured employer is engaged and the geographic area where the employees are employed.

(c) All MPN applicants shall submit an original Cover Page for Medical Provider Network Application with original signature, an original application, and a copy of the Cover Page for Medical Provider Network and application to the Division.

(1) A MPN applicant ~~may~~shall submit the provider information and/or ancillary service provider information required in section 9767.3(a)(8)(C) and (D) on a computer disk(s) or CD ROM(s). The information shall be submitted as a Microsoft Excel spread sheet ~~or as a Microsoft Access File~~ unless an alternative format is approved by the Administrative Director.

~~(2) If the network provider information is submitted on a disk(s) or CD ROM(s), the provider file must have at a minimum five~~ only the following three columns. These columns shall be: 1) physician name 2) license number 3) the taxpayer identification number 4) specialty and 5) location of each physician. 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.

~~(3) If the ancillary service provider information is submitted on a disk(s) or CD ROM(s), the file must have at a minimum five~~ only the following three columns. The columns shall be 1) the name of the each ancillary provider 2) license number 3) the taxpayer identification number 4) specialty or type of service and 5) location of each ancillary service provider. 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.

(d) If the network is not a Health Care Organization, Health Care Service Plan, Group Disability Insurance Policy, or Taft-Hartley Health and Welfare Fund, a Medical Provider Network application shall include all of the following information:

- (1) Type of MPN Applicant: Insurer or Employer.
- (2) Name of MPN Applicant.
- (3) MPN Applicant's Taxpayer Identification Number.
- (4) Name of Medical Provider Network, if applicable.
- (5) Division Liaison: Provide the name, title, address, e-mail address, and telephone number of the person designated as the liaison for the Division, who is responsible for receiving compliance and informational communications from the Division and for disseminating the same within the MPN.
- (6) The application must be verified by an officer or employee of the MPN applicant ~~authorized to sign~~ with the authority to act on behalf of the MPN applicant with respect to the MPN. The verification ~~by the authorized individual~~ shall state: "I, the undersigned officer or employee of the MPN applicant, have read and signed this application and know the contents thereof, and verify that, to the best of my knowledge and belief, the information included in this application is true and correct."
- (7) Nothing in this section precludes a network, entity, administrator, or other third-party, upon agreement with an MPN applicant, from preparing an MPN application on behalf of an insurer or employer.
- (8) Description of Medical Provider Network Plan:
 - (A) State the number of employees expected to be covered by the MPN plan;
 - (B) Describe the geographic service area or areas within the State of California to be served;
 - (C) The name, ~~license number, taxpayer identification number,~~ specialty, and location of each physician as described in Labor Code Section 3209.3, or other providers as described in Labor Code Section 3209.5, who will be providing occupational medicine services under the plan. ~~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.~~ By submission of the application, the MPN applicant is confirming that a contractual agreement exists with the physicians, providers or medical group practice in the MPN to provide treatment for injured workers in the workers' compensation system and that the contractual agreement is in compliance with Labor Code section 4609, if applicable.
 - (D) The name, ~~license number (if required by the State of California), taxpayer identification number,~~ specialty or type of service and location of each ancillary service, other than a physician or provider covered under subdivision (d)(8)(C), who will be providing medical services within the medical provider network. ~~By submission of the application, the MPN applicant is confirming that a contractual agreement exists between the MPN and these ancillary services in~~

~~the MPN or the MPN applicant and these ancillary services in the MPN;~~ 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.

(E) Describe how the MPN complies with the second and third opinion process set forth in section 9767.7;

(F) Describe how the MPN complies with the goal of at least 25% of physicians (not including pediatricians, OB/GYNs, or other specialties not likely to routinely provide care for common injuries and illnesses expected to be encountered in the MPN) primarily engaged in the treatment of nonoccupational injuries;

(G) Describe how the MPN arranges for providing ancillary services to its covered employees. Set forth which ancillary services, if any, will be within the MPN. For ancillary services not within the MPN, affirm that referrals will be made to services outside the MPN;

(H) Describe how the MPN complies with the access standards set forth in section 9767.5 for all covered employees;

(I) Describe the employee notification process, and attach an English and Spanish sample of the employee notification material described in sections 9767.12(a) and (b). Any specific MPN contact or provider listing access information that is not available for administrative review in the sample employee notification shall be included in the MPN employee notification distributed to employees;

(J) Attach a copy of the written continuity of care policy as described in Labor Code section 4616.2;

(K) Attach a copy of the written transfer of care policy that complies with section 9767.9;

(L) Attach any policy or procedure that is used by the MPN applicant to conduct “economic profiling of MPN providers” pursuant to Labor Code section 4616.1 and affirm that a copy of the policy or procedure has been provided to the MPN providers or attach a statement that the MPN applicant does not conduct economic profiling of MPN providers;

(M) Provide an affirmation that the physician compensation is not structured in order to achieve the goal of reducing, delaying, or denying medical treatment or restricting access to medical treatment; and

(N) Describe how the MPN applicant will ensure that no person other than a licensed physician who is competent to evaluate the specific clinical issues involved in the medical treatment services, when these services are within the scope of the physician’s practice, will modify, delay, or deny requests for authorization of medical treatment.

(e) If the entity is a Health Care Organization, a Medical Provider Network application shall set forth the following:

(1) Type of MPN Applicant: Insurer or Employer

(2) Name of MPN Applicant

(3) MPN Applicant's Taxpayer Identification Number

(4) Name of Medical Provider Network, if applicable.

(5) Division Liaison: Provide the name, title, address, e-mail address, and telephone number of the person designated as the liaison for the Division, who is responsible for receiving compliance and informational communications from the Division and for disseminating the same within the MPN.

(6) The application must be verified by an officer or employee of the MPN applicant ~~authorized to sign~~ with the authority to act on behalf of the MPN applicant with respect to the MPN. The verification by the authorized individual shall state: "I, the undersigned officer or employee of the MPN applicant, have read and signed this application and know the contents thereof, and verify that, to the best of my knowledge and belief, the information included in this application is true and correct. "

(7) Nothing in this section precludes a network, entity, administrator, or other third-party, upon agreement with an MPN applicant, from preparing an MPN application on behalf of an insurer or employer.

(8) Describe how the MPN complies with the second and third opinion process set forth in section 9767.7;

(9) Confirm that the application shall set forth that at least 25% of the network physicians are primarily engaged in nonoccupational medicine;

(10) Describe the geographic service area or areas within the State of California to be served and affirm that this access plan complies with the access standards set forth in section 9767.5;

(11) Describe the employee notification process, and attach an English and Spanish sample of the employee notification material described in sections 9767.12(a) and (b). Any specific MPN contact or provider listing access information that is not available for administrative review in the sample employee notification shall be included in the MPN employee notification distributed to employees;

(12) Attach a copy of the written continuity of care policy as described in Labor Code section 4616.2;

(13) Attach a copy of the written transfer of care policy that complies with section 9767.9 with regard to the transfer of on-going cases from the HCO to the MPN;

(14) Attach a copy of the policy or procedure that is used by the MPN applicant or an entity contracted with the MPN or MPN applicant to conduct “economic profiling of MPN providers” pursuant to Labor Code section 4616.1 and affirm that a copy of the policy or procedure has been provided to the MPN providers or attach a statement that the MPN applicant does not conduct economic profiling of MPN providers; and

(15) Describe the number of employees expected to be covered by the MPN plan and confirm that the number of employees is within the approved capacity of the HCO.

(16) By submission of the application, the MPN applicant is confirming that a contractual agreement the physicians, providers or medical group practice in the MPN to provide treatment for injured workers in the workers’ compensation system and that the contractual agreement with the providers is in compliance with Labor Code section 4609, if applicable.

(f) If the entity is a Health Care Service Plan, Group Disability Insurance Policy, or Taft-Hartley Health and Welfare Fund, in addition to the requirements set forth in subdivision (e) [excluding (e)(9) and (e)(15)], a Medical Provider Network application shall include the following information:

(1) The application shall set forth that the entity has a reasonable number of providers with competency in occupational medicine.

(A) The MPN applicant may show that a physician has competency by confirming that the physician either is Board Certified or was residency trained in that specialty.

(B) If (A) is not applicable, describe any other relevant procedure or process that assures that providers of medical treatment are competent to provide treatment for occupational injuries and illnesses.

(g) If the MPN applicant is providing for ancillary services within the MPN that are in addition to the services provided by the Health Care Organization, Health Care Service Plan, Group Disability Insurance Policy, or Taft-Hartley Health and Welfare Fund, it shall set forth the ancillary services in the application.

(h) If a Health Care Organization, Health Care Service Plan, Group Disability Insurance Policy, or Taft-Hartley Health and Welfare Fund has been approved as a MPN, and the entity does not maintain its certification or licensure or regulated status, then the entity must file a new Medical Provider Network Application pursuant to section 9767.3 (d).

(i) If a Health Care Organization, Health Care Service Plan, Group Disability Insurance Policy, or Taft-Hartley Health and Welfare Fund has been modified from its certification or licensure or regulated status, the application shall comply with subdivision (d).

Authority: Sections 133 and 4616(g), Labor Code.

Reference: Sections 3209.3, 4609, 4616, 4616.1, 4616.2, 4616.3, 4616.5, and 4616.7, Labor Code.

[Section 9767.4 through Section 9767.5 will not be amended.]

Section 9767.6 Treatment and Change of Physicians Within MPN

(a) When the injured covered employee notifies the employer or insured employer of the injury or files a claim for workers' compensation with the employer or insured employer, the employer or insurer shall arrange an initial medical evaluation with a MPN physician in compliance with the access standards set forth in section 9767.5.

(b) Within one working day after an employee files a claim form under Labor Code section 5401, the employer or insurer shall provide for all treatment, consistent with guidelines adopted by the Administrative Director pursuant to Labor Code section 5307.27 and as set forth in title 8, California Code of Regulations, section 9792.20 et seq. ~~or, prior to the adoption of these guidelines, the American College of Occupational and Environmental Medicine's Occupational Medicine Practice Guidelines (ACOEM), and for all injuries not covered by the ACOEM guidelines or guidelines adopted by the Administrative Director, authorized treatment shall be in accordance with other evidence-based medical treatment guidelines generally recognized by the national medical community and that are scientifically based. The Administrative Director incorporates by reference the American College of Occupational and Environmental Medicine's Occupational Medicine Practice Guidelines (ACOEM), 2nd Edition (2004), published by OEM Press. A copy may be obtained from OEM Press, 8 West Street, Beverly Farms, Massachusetts 01915 (www.oempres.com).~~

(c) The employer or insurer shall provide for the treatment with MPN providers for the alleged injury and shall continue to provide the treatment until the date that liability for the claim is rejected. Until the date the claim is rejected, liability for the claim shall be limited to ten thousand dollars (\$10,000).

(d) The insurer or employer shall notify the employee of his or her right to be treated by a physician of his or her choice within the MPN after the first visit with the MPN physician and the method by which the list of participating providers may be accessed by the employee.

(e) At any point in time after the initial medical evaluation with a MPN physician, the covered employee may select a physician of his or her choice from within the MPN. Selection by the covered 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.

(f) ~~The employer or insurer shall not be entitled to file a~~ A Petition for Change of Treating Physician, as set forth at section 9786, cannot be utilized to seek a change of physician for if a covered employee who is treating with a physician within the MPN.

Authority: Sections 133 and 4616(g), Labor Code.

Reference: Sections 4604.5, 4616, 4616.3, 5307.27 and 5401, Labor Code.

[Section 9767. 7 will not be amended.]

Section 9767.8 Modification of Medical Provider Network Plan

(a) The MPN applicant shall serve the Administrative Director with an original Notice of MPN Plan Modification with original signature, any necessary documentation, and a copy of the Notice and any necessary documentation before any of the following changes occur:

(1) A change of 10% or more in the number or specialty of providers participating in the network since the approval date of the previous MPN Plan application or modification.

(2) A change of 25% or more in the number of covered employees since the approval date of the previous MPN Plan application or modification.

(3) A material change in the continuity of care policy.

(4) A material change in the transfer of care policy.

(5) Change in policy or procedure that is used by the MPN or an entity contracted with the MPN or MPN applicant to conduct “economic profiling of MPN providers” pursuant to Labor Code section 4616.1.

(6) Change in the name of the MPN or the MPN Applicant.

(7) Change in geographic service area within the State of California.

(8) Change in how the MPN complies with the access standards.

(9) A material change in any of the employee notification materials, including a change in MPN contact information or a change in provider listing access or website information, required by section 9767.12.

~~(10) Any other material change to the MPN application. (For example, changes in use of a deemed entity, change in MPN contact information, change in provider listing access or website information, etc.)~~ 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.

(11) 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.

(12) Replacement of entire MPN plan application.

(13) Updating to the permanent regulations pursuant to section 9767.15.

(b) The MPN applicant shall serve the Administrative Director with a Notice of MPN Plan Modification within 5 business days of a change of the DWC liaison or authorized individual.

(c) The modification must be verified by an officer or employee of the MPN ~~authorized to sign~~ with the authority to act on behalf of the MPN applicant with respect to the MPN. The verification by the authorized individual shall state: “I, the undersigned officer or employee of the MPN applicant, have read and signed this notice and know the contents thereof, and verify that, to the best of my knowledge and belief, the information included in this notice is true and correct.”

(d) Within 60 days of the Administrative Director’s receipt of a Notice of MPN Plan Modification, the Administrative Director shall approve or disapprove the plan modification based on information provided in the Notice of MPN Plan Modification. The Administrative Director shall approve or disapprove a plan modification based on the requirements of Labor Code section 4616 et seq. and this article. If the Administrative Director has not acted on a plan within 60 days of submittal of a Notice of MPN Plan Modification, it shall be deemed approved. Except for (a)(6) and (b), modifications shall not be made until the Administrative Director has approved the plan or until 60 days have passed, which ever occurs first. If the Administrative Director disapproves of the MPN plan modification, he or she shall serve the MPN applicant with a Notice of Disapproval within 60 days of the submittal of a Notice of MPN Plan Modification.

(e) A MPN applicant denied approval of a MPN plan modification may either:

(1) Submit a new request addressing the deficiencies; or

(2) Request a re-evaluation by the Administrative Director.

(f) Any MPN applicant may request a re-evaluation of the denial by submitting with the Division, within 20 days of the issuance of the Notice of Disapproval, a written request for a re-evaluation with a detailed statement explaining the basis upon which a re-evaluation is requested. The request for re-evaluation shall be accompanied by supportive documentary material relevant to the specific allegations raised and shall be verified under penalty of perjury. The MPN application and modification at issue shall not be re-filed; they shall be made part of the administrative record by incorporation by reference.

(g) The Administrative Director shall, within 45 days of the receipt of the request for a re-evaluation, either:

(1) Issue a Decision and Order affirming or modifying the Notice of Disapproval based on a failure to meet the procedural requirements of this section or based on a failure to meet the requirements of Labor Code section 4616 et seq. and this article; or

(2) Issue a Decision and Order revoking the Notice of Disapproval and issue an approval of the modification;

(h) The Administrative Director may extend the time specified in subdivision (h) within which to act upon the request for a re-evaluation for a period of 30 days and may order a party to submit additional documents or information.

(i) A MPN applicant may appeal the Administrative Director's decision and order regarding the MPN by filing, within twenty (20) days of the issuance of the decision and order, a petition at the district office of the Workers' Compensation Appeals Board closest to the MPN applicant's principal place of business, together with a Declaration of Readiness to Proceed. The petition shall set forth the specific factual and/or legal reason(s) for the appeal. A copy of the petition and of the Declaration of Readiness to Proceed shall be concurrently served on the Administrative Director.

(j) The MPN applicant shall use the following Notice of MPN Plan Modification form:

For DWC only: MPN Approval Number

Date Application Received: / /

Notice of Medical Provider Network Plan Modification §9767.8

1. Name of MPN Applicant _____

2. Address

3. Tax Identification Number

_____-_____

4. Type of MPN Applicant

Self-Insured Employer

Group of Self-Insured Employers

Self-Insured Security Fund

Joint Powers Authority

State

Insurer

5. Name of Medical Provider Network(s), if applicable:

6. Date of initial application approval and MPN approval number: _____

7. Dates of prior plan modifications approvals: _____

8. If the medical provider network is using one of the following deemed entities, check the appropriate box:

Health Care Organization (HCO)

Health Care Service Plan

Group Disability Insurer

Taft-Hartley Health and Welfare Trust Fund

9. Name of entity, administrator or other third-party who prepared MPN Application on behalf of MPN applicant (if applicable): _____

10. Signature of authorized individual: "I, the undersigned officer or employee of the MPN Applicant, have read and signed this application and know the contents thereof, and verify that, to the best of my knowledge and ability, the information included in this application is true and correct."

Name of Authorized Individual Title Organization Phone/Email

Signature of Authorized Individual Date Signed

11. Authorized Liaison to DWC:

Name Title Organization Phone/Email

Address Fax number

Please give a short summary of the proposed modifications in the space provided below and place a check mark against the box that reflects the proposed modification. Please explain whether the modification will adversely affect the ability of the MPN to meet the regulatory and statutory MPN requirements.

- Change in Service Area: Provide documentation in compliance with section 9767.5.
- Change of MPN or MPN Applicant name: Provide new ~~MPN~~ name and plan sections affected by the change.
- Change of Division Liaison or Authorized Individual: Provide the name and contact information.
- Change of 10% or more in the number or specialty of Network Providers since the approval date of the previous MPN Plan application or modification: Provide the name, ~~license number~~, and location of each physician by specialty type or name provider, if other than physician.
- Change of 25% or more in the number of covered employees since the approval date of the previous MPN Plan application or modification.
- Change in continuity of care policy: Provide a copy of the revised written continuity of care policy.
- Change in transfer of care policy: Provide a copy of the revised written transfer of care policy.
- Change in Economic Profiling policy used by MPN Applicant or any entity contracted with MPN: Provide a copy of the revised policy or procedure.
- Change in how the MPN complies with the access standards: Explain what change has been made and describe how the MPN still complies with the access standards.
- Change of employee notification materials, including a change in MPN contact information, or a change in provider listing access or website information: Provide a copy of the revised notification materials.
- ~~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~~
- 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.
Please state change: From _____ To _____
- 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.
- Replacement of entire plan application. Please state why and include entire revised plan.
- Update of MPN plan to the permanent regulations pursuant to section 9767.15. Please include entire updated plan.

Submit an original Notice of MPN Plan Modification with original signature, any necessary documentation, and a copy of the Notice and documents to the Division of Workers' Compensation. Mailing address: DWC, MPN Application, P.O. Box 71010, Oakland, CA 94612.

Authority: Sections 133, 4616(g) and 5300(f), Labor Code.

Reference: Sections 3700, 3743, 4616, 4616.2, and 4616.5, Labor Code.

[Section 9767.9 through Section 9767.11 will not be amended.]

Section 9767.12 Employee Notification.

a) An employer or insurer that offers a Medical Provider Network Plan under this article shall notify ~~each~~ every covered employee in writing about the use of the Medical Provider Network at least 14 ~~30~~ days prior to the implementation of an approved MPN or at the time of hire for new employees, ~~at the time of hire, or when an existing employee transfers into the MPN, whichever is appropriate to ensure that the employee has received the initial notification. The notification shall also be sent to a covered employee at the time of injury. The initial MPN implementation notice notification(s) shall be ~~written~~ provided in English and Spanish, ~~or whichever is more appropriate for the employee.~~ The initial written MPN implementation notice to all covered employees notification shall, at a minimum, include the following information:~~

- ~~(1) How to contact the person designated by the employer or insurer to be the MPN contact for covered employees. The employer or insurer shall provide a toll free telephone number if the MPN geographical service area includes more than one area code;~~
- ~~(2) A description of MPN services;~~
- ~~(3) How to review, receive or access the MPN provider directory. Nothing precludes an employer or insurer from initially providing covered employees with a regional area listing of MPN providers in addition to maintaining and making available its complete provider listing in writing. If the provider directory is also accessible on a website, the URL address shall be listed;~~
- ~~(4) How to access initial care and subsequent care, and what the access standards are under section 9767.5;~~
- ~~(5) How to access treatment if (A) the employee is authorized by the employer to temporarily work or travel for work outside the MPN's geographical service area; (B) a former employee whose employer has ongoing workers' compensation obligations permanently resides outside the MPN geographical service area; and (C) an injured employee decides to temporarily reside outside the MPN geographic service area during recovery;~~
- ~~(6) How to choose a physician within the MPN;~~
- ~~(7) What to do if a covered employee has trouble getting an appointment with a provider within the MPN;~~
- ~~(8) How to change a physician within the MPN;~~
- ~~(9) How to obtain a referral to a specialist within the MPN or outside the MPN, if needed;~~
- ~~10) How to use the second and third opinion process;~~
- ~~(11) How to request and receive an independent medical review;~~
- ~~(12) A description of the standards for transfer of ongoing care into the MPN and a notification that a copy of the policy shall be provided to an employee upon request; and~~
- ~~(13) A description of the continuity of care policy and a notification that a copy of the policy shall be provided to an employee upon request.~~

1) That medical treatment for new work injuries will be provided through the Medical Provider Network as of the effective date of coverage unless the employee ~~has~~ properly predesignateds a physician or medical group prior to injury;

2) The effective date of coverage under the new MPN;

3) That existing work injuries may be covered under the prior MPN or may be transferred into the new MPN, ~~with the name of the prior MPN to be included, if available.~~ The worker should check with the worker's claims adjuster for more information;

4) That for periods when the worker is not covered by a MPN, an employee may choose a physician 30 days after the date the employee notified the employer of his or her injury.

5) The MPN Contact's ~~name,~~ telephone number, address, ~~and~~ email address (optional) and an ~~a~~ MPN website (optional), ~~if applicable,~~ for the worker to obtain more information about using the MPN.

~~b) At the time of the selection of the physician for a third opinion, the covered employee shall be notified about the Independent Medical Review process. The notification shall be written in English and Spanish.~~

The following language may be used for the initial written MPN implementation notice provided to covered employees: "Unless you ~~have~~ predesignated a physician or medical group prior to injury, your new work injuries arising on or after <INSERT EFFECTIVE DATE OF NEW MPN> will be treated by providers in a new Medical Provider Network, <INSERT NEW MPN NAME>. If you have an existing injury, you may be required to continue care under your prior MPN ~~<INSERT NAME OF PRIOR MPN IF AVAILABLE>~~ or you may be required to change to a provider in the new MPN. Check with your claims adjuster. 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. ~~Contact~~ You may obtain more information at <INSERT MPN CONTACT NAME, PHONE NUMBER, AND ADDRESS, EMAIL (optional), AND MPN WEBSITE (optional), ~~IF APPLICABLE.>~~ for more information about the use of the MPN."

~~c) Covered employees shall be notified 30 days prior to a change of the medical provider network. If the MPN applicant is an insurer, then a copy of the notification shall be served on the insured employer. The notification shall be written in English and Spanish.~~

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 initial MPN notification may be provided by mail or included on or with an employee's paystub, paycheck or distributed through electronic means, including email, if the employee has regular electronic access to email at work to receive this notice at least 14 days prior to the implementation of the MPN. If the employee cannot receive this notice electronically at work within the required time frame, then the ~~supervisor~~ employer

shall provide this information to the employee in writing at least 14 days prior to the implementation of the MPN.

d) Separate from the initial MPN implementation notice, a complete written MPN employee notification with the information specified in subdivision (f) about coverage under the MPN shall be provided to covered employees at the time of injury and when an employee is transferred into the MPN. This MPN notification shall be provided to employees in English and Spanish, ~~or whichever is more appropriate for the covered employee.~~ Before MPN coverage is implemented, the complete written MPN employee notification shall also be posted in both English and Spanish in a conspicuous location frequented by employees during the hours of the workday and ~~next~~ in close proximity to the workers' compensation posting required under section 9881.

(e) The complete MPN notification may be distributed through electronic means, including email, if the covered employee has regular electronic access to email at work to receive this notice at the time of injury or when the employee is being transferred into the MPN. If the employee cannot receive this notice electronically at work, then the ~~supervisor~~ employer shall provide this information to the employee in writing at the time of injury or when the employee is being transferred into the MPN.

(f) The complete written MPN employee notification shall include the following information:

(1) How to contact the person designated by the employer or insurer to be the MPN Contact for covered employees to answer questions about MPNs and to address MPN problems. The employer or insurer shall provide a toll-free telephone number if the MPN geographical service area includes more than one area code;

(2) A description of MPN services;

(3) How to review, receive or access the MPN provider directory. An employer or insurer shall ensure covered employees have access to, at minimum, a regional area listing of MPN providers in addition to maintaining and making available its complete provider listing in writing or electronically on a CD or on a website if an electronic listing is requested by the employee. If the provider directory is also accessible on a website, the URL address shall be listed with any additional information needed to access the directory online. All provider listings shall be regularly updated, at minimum, on a quarterly basis with the date of the last update provided on the listing given to the employee, to ensure the listing is kept accurate;

(4) How to access initial care and subsequent medical care;

(5) The mileage, time requirements and alternative access standards required under section 9767.5;

(6) How to access treatment if (A) the employee is authorized by the employer to temporarily work or travel for work outside the MPN's geographical service area; (B) a former employee whose employer has ongoing workers' compensation obligations permanently resides outside the

MPN geographical service area; and (C) an injured employee decides to temporarily reside outside the MPN geographic service area during recovery;

(7) How to choose a physician within the MPN;

(8) What to do if a covered employee has trouble getting an appointment with a provider within the MPN;

(9) How to change a physician within the MPN;

(10) How to obtain a referral to a specialist within the MPN or outside the MPN, if needed;

(11) How to use the second and third opinion process;

(12) How to request and receive an independent medical review;

(13) A description of the standards for the transfer of care policy and a notification that a copy of the policy shall be provided to an employee upon request; and

(14) A description of the standards for the continuity of care policy and a notification that a copy of the policy shall be provided to an employee upon request.

(g) At the time of the selection of the physician for a third opinion, the covered employee shall be notified about the Independent Medical Review process. The notification shall be written in English and Spanish, ~~or whichever is more appropriate for the employee.~~

Authority: Sections 133 and 4616, Labor Code.

Reference: Sections 4616, 4616.2 and 4616.3, Labor Code.

[Section 9767.13 through Section 9767.15 will not be amended.]

9767.16 Notice of ~~to Employee Rights Upon Termination, or Cessation of Use, or Change of~~ Medical Provider Network

(a) The Medical Provider Network (“MPN”) Applicant is responsible for ensuring that each covered employee is informed in writing of the MPN policies under which he or she is covered and when the employee is no longer covered by ~~an~~ the Applicant’s MPN. The MPN Applicant shall ensure each covered employee is given written notice of the date of termination or cessation of use of its MPN. The written notice shall be provided to covered employees prior to the effective date of termination or cessation of use of ~~an~~ the Applicant’s MPN. The notices required by this section shall be ~~made available~~ provided in English and Spanish, ~~or whichever is more appropriate for the employee.~~

(1) The MPN Applicant whose MPN is being terminated or will cease to be used shall ensure that advise every covered employee is provided of the following information prior to the termination or cessation of use of the its MPN in all notices of termination or cessation of use of an MPN by an MPN Applicant or an insured employer:

- (A) The effective date of termination or cessation of use of the ~~named Applicant's~~ MPN.
- (B) ~~The insurer's or employer's liability for continuing care for ongoing claims, and the potential penalties that may be imposed by the WCAB for unreasonable delay or interruption of that care. Whether the MPN will still be used for injuries arising before the date MPN coverage ends.~~
- (C) ~~The name, address, and telephone number, and email address (optional), and an MPN website (optional), if applicable, of the person to MPN eContact with who can address MPN questions concerning the MPN's termination or cessation of use, including any questions about continuity of care or transfer of care.~~
- (D) ~~If there will be a For periods when an employee is not covered by a of no MPN, coverage due to a termination, cessation of use, or before a change to a different MPN is effective, then notice shall be given of an employee's rights to a choice of may choose a physician under Labor Code section 4600. Specifically, an employee who has an existing industrial illness or injury that is being treated under the MPN shall have the right under Labor Code section 4600 to be treated by a physician of his or her own choice or at a facility of his or her own choice within a reasonable geographic area after 30 days have elapsed from after the date the employee notified the employer of his or her injury.~~
- (E) ~~Any pending Independent Medical Review under that MPN shall also be terminated.~~

(2) ~~If an MPN Applicant or insured employer is also changing MPN coverage to a different MPN, the MPN Applicant is responsible for ensuring that every covered employee is given notice of the following information in addition to the information required for an MPN termination or cessation of use:~~

- (A) ~~Notice that any injured worker receiving treatment from a provider not in the subsequent MPN, may be entitled to transfer of care to continue treatment with his or her current provider. Transfer of care applies when an employee has an acute, serious chronic or terminal illness or has a prior scheduled medical procedure with the non-MPN provider, pursuant to section 9767.9 of these regulations. The notice shall also advise that an employee may be required to treat within the new MPN after the transfer of care period.~~
- (B) ~~Notice that is required by sections 9767.12(a) and (c) for new MPN coverage and for a change of MPNs.~~

The following language may be provided in writing to covered employees to give the required notice of termination or cessation of use of a MPN: "The <Insert MPN Name> Medical Provider Network (MPN) will no longer be used for injuries arising after <Insert Date of MPN Termination or Cessation of Use>. You will/will not <Select Whichever is Appropriate>

continue to use this MPN to obtain care for work injuries occurring before this date. For new injuries that occur when you are not covered by a MPN, you have the right to choose your physician 30 days after you notify your employer of your injury. ~~For more MPN information, please contact~~ You may obtain more information at <Insert MPN Contact Name, Phone Number, Address, Email Address (optional), and MPN Website (optional) ~~If Applicable~~>.”

(3) The notice of MPN termination or cessation of use may be provided by mail or included on or with an employee’s paystub, paycheck or distributed through electronic means, including email, if the employee has regular electronic access to email at work to receive this notice prior to the end of MPN coverage. If the employee cannot receive this notice electronically at work within the required time frame, then the ~~supervisor~~ employer shall provide this information to the employee in writing prior to the end of MPN coverage.

(4) Any pending Independent Medical Review will end with the employee’s coverage under the MPN.

~~(b) Notice of termination or cessation of use of an MPN may be combined with the notice of the change to new MPN coverage if the combined notice meets all the MPN regulatory requirements. If a MPN Applicant or insured employer is changing MPN coverage to a different MPN, the MPN Applicant that is providing the new MPN coverage shall ensure that every covered employee is provided written notice of the following information at least 14 days prior to the effective date of coverage under the that Applicant’s MPN:~~

1) That medical treatment for new work injuries will be provided through the Medical Provider Network as of the effective date of coverage unless the employee ~~has~~ properly predesignateds a physician or medical group prior to injury;

2) The effective date of coverage under the new MPN;

3) That existing work injuries may be covered under the prior MPN or may be transferred into the new MPN, ~~with the name of the prior MPN to be included, if available.~~ The worker should check with the worker’s claims adjuster for more information;

4) That for periods when the worker is not covered by a MPN, an employee may choose a physician 30 days after the date the employee notified the employer of his or her injury;

5) The MPN Contact’s ~~name,~~ telephone number, address, email address (optional), and an MPN website (optional), ~~if applicable,~~ for the worker to obtain more information about using the MPN.

~~(c) Notice of a change of MPNs shall be transmitted by the MPN Applicant providing the new MPN coverage to the Division, not less than 45 calendar days prior to the effective date of the termination or cessation of use of the MPN. A written letter signed by the MPN Applicant’s authorized individual shall be submitted to DWC stating the effective date of the termination or cessation of use of the prior MPN, the planned effective date of the new MPN coverage, and~~

~~shall attach a copy of the employee notice(s) to be sent to the covered employees pursuant to this section. The notices of a change of MPNs shall not be distributed without approval from DWC. If a notice is timely filed and DWC does not act by the date the notice should be distributed, then the notice shall be deemed approved.~~

The following language may be provided in writing to covered employees to give the required notice of the change of MPN coverage: “Unless you ~~have~~ predesignated a physician or medical group prior to injury, your new work injuries arising on or after <INSERT EFFECTIVE DATE OF NEW MPN> will be treated by providers in a new Medical Provider Network, <INSERT NEW MPN NAME>. If you have an existing injury, you may be required to continue care under your prior MPN <INSERT NAME OF PRIOR MPN IF AVAILABLE> or you may be required to change to a provider in the new MPN. Check with your claims adjuster. 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. ~~Contact~~ You may obtain more information at <INSERT MPN CONTACT NAME, PHONE NUMBER, AND ADDRESS, EMAIL ADDRESS (optional), AND AN MPN WEBSITE (optional)> for more information about the use of the MPN.”

(d) Notice of termination or cessation of use of a MPN may be combined with the notice of a change to new MPN coverage if the combined notice meets all the MPN regulatory requirements for termination or cessation of use of a MPN and for change of a MPN.

(e) Notices required by this section shall be provided in English and Spanish, ~~or whichever is more appropriate for the employee.~~

(f) The notice of a change of MPN coverage may be provided by mail or included on or with an employee’s paystub, paycheck or distributed through electronic means, including email, if the covered employee has regular electronic access to email at work to receive this notice at least 14 days prior to the beginning of new MPN coverage. If the employee cannot receive this notice electronically at work within the required time frame, then the ~~supervisor-employer~~ shall provide this information to the employee in writing at least 14 days prior to the beginning of new MPN coverage.

~~(g) The name and coverage period of the MPN being used by the employer to treat current injuries shall be stated on the workers' compensation posting required under section 9881.~~

~~(e)(1) (hg)~~ If a change in MPN coverage results in modifications to an MPN’s plan application or results in the filing of a new MPN application, the MPN modification or new application filing shall be submitted to DWC pursuant to section 9767.8 or 9767.3, whichever is applicable. Distribution to covered employees of the ~~30-14-day~~ notice of a change of MPNs shall occur after DWC’s approval of an MPN modification or new MPN.

Authority: Sections 59, 124, 133, 138.3, 138.4, 4616, and 5307.3, Labor Code.

Reference: Sections 3550, 4616.2, Labor Code.

Title 8 California Code of Regulations
Chapter 4.5. Division of Workers' Compensation
Subchapter 1. Administrative Director -- Administrative Rules
Article 8.5. Employee Information

Section 9880. Written Notice to New Employees

(a) Every employer shall provide to every new employee, either at the time of hire or by the end of the first pay period, the Written Notice to New Employees concerning the rights, benefits and obligations under worker's compensation law. The content of the notice must be approved by the Administrative Director.

(b) The notice shall be easily understandable. It shall be available in both English and Spanish where there are Spanish-speaking employees.

(c) The notice provided shall be in writing, in non-technical terms and shall include the following information:

(1) The name of the current compensation insurance carrier of the employer at the time of distribution, or when such is the fact, that the employer is self-insured, and who is responsible for claims adjustment;

(2) How to get emergency medical treatment, if needed;

(3) The kind of events, injuries and illnesses covered by workers' compensation;

(4) The injured employee's right to receive medical care;

(5) How to obtain appropriate medical care for a job injury;

(6) The role and function of the primary treating physician;

(7) The rights of the employee to select and change the treating physician pursuant to the provisions of Labor Code Sections 4600 to 4601, including the right to predesignate a personal physician or a medical group;

(8) A form that the employee may use as an optional method for notifying the employer of the name of the employee's "personal physician," as defined by Labor Code Section 4600, or "personal chiropractor," as defined by Labor Code Section 4601;

(9) The rights of the employee to receive temporary disability indemnity, permanent disability indemnity, ~~vocational rehabilitation services~~, supplemental job displacement benefits, and death benefits, as appropriate;

- (10) To whom the injuries should be reported;
- (11) The existence of time limits for the employer to be notified of an occupational injury;
- (12) The protections against discrimination provided pursuant to Section 132a; and
- (13) The location and telephone number of the nearest information and assistance officer, including an explanation of services available.
- (14) A description about Medical Provider Networks (“MPN”) which includes that the employer may be using a MPN, what a MPN is, the predesignation exemption from the MPN, when an employee must begin to use a physician from the MPN, and how to request information about using a MPN.

Authority: Sections 133, 138.3, 138.4, 3550, 3551, 4603.5 and 5307.3, Labor Code.

Reference: Sections 132(a), ~~139.5~~, 139.6, 3550, 3551, 3600, 4600, 4601, 4603, 4616, 4650, 4651, 4656, 4658.5, 4658.6, 4700, 4702, ~~and~~ 4703, 5400 and 5401, Labor Code.

Section 9881. Posting of Notice to Employees

- (a) Every employer shall post and keep posted in a conspicuous location frequented by employees during the hours of the workday a Notice to Employees.
- (b) The Notice to Employees poster shall be easily understandable. It shall be posted in both English and Spanish where there are Spanish-speaking employees.
- (c) The Notice to Employees poster shall include the following information:
 - (1) The name of the current compensation insurance carrier of the employer, or when such is the fact, that the employer is self-insured, and who is responsible for claims adjustment.
 - (2) How to get emergency medical treatment, if needed.
 - (3) Emergency telephone numbers(s), for ~~physician~~, hospital, ambulance, police and firefighting services.
 - (4) The kinds of events, injuries and illnesses covered by workers' compensation.
 - (5) Advice that the employer may not be responsible for compensation because of an injury due to the employee's voluntary participation in any off-duty recreational, social, or athletic activity that is not a part of the employee's work-related duties.
 - (6) The injured employee's right to receive medical care.

(7) The rights of the employee to select and change the treating physician pursuant to the provisions of Labor Code Section 4600, including the right to predesignate a personal physician or medical group.

(8) The rights of the employee to receive temporary disability indemnity, permanent disability indemnity, ~~vocational rehabilitation services~~, supplemental job displacement benefits, and death benefits, as appropriate.

(9) To whom the injuries should be reported.

(10) The existence of time limits for the employer to be notified of an occupational injury.

(11) The protections against discrimination provided pursuant to Labor Code Section 132a.

(12) The location and telephone number of the nearest information and assistance officer.

(13) A description about Medical Provider Networks (“MPN”) which includes that the employer may be using a MPN, what a MPN is, the predesignation exemption from the MPN, when an employee must begin to use a physician from the MPN, and how to request information about using a MPN. The MPN Contact telephone number, address and, if available, the email and MPN website address/URL, shall be included. as well as t~~The period~~ effective date of MPN coverage for the MPN being used by the employer to cover current injuries shall also be stated if the employer is using an MPN.

(e-d) The employer may post the Administrative Director's approved Notice to Employee Poster provided in Section 9881.1. If the employer chooses not to use the Notice to Employee Poster provided in Section 9881.1, the employer may use a poster which meets the posting requirements of Labor Code Section 3550, includes the information required by this regulation, and has been approved by the Administrative Director.

Authority: Sections 133, 138.3, 139.6, 3550, ~~4603.5~~, and 5307.3, Labor Code.

Reference: Sections ~~132(a), 439.5, 139.6~~, 3550, 3600, 4600, 4601, 4603, 4616, ~~4656~~, 4658.5 and 4658.6, ~~5400, 5401~~, Labor Code.

Section 9881.1. Notice to Employees Poster

[See Proposed Revisions to Notice to Employees Poster]

Authority: Sections 133, 138.3, 139.6, 3550, ~~4603.5~~, and 5307.3, Labor Code.

Reference: Sections ~~132(a), 139.6~~, 3550, 4600, ~~4600.3~~, 4601, 4603, 4604.5, 4616, ~~4656~~, 4658.5 and 4658.6, ~~5400, 5401 5402~~, Labor Code.

Title 8 California Code of Regulations
Chapter 4.5. Division of Workers' Compensation
Subchapter 1.5. Administrative Director -- Administrative Rules
Article 9. Claim Form: Availability, Filing, Acknowledgement of Receipt, Dismissal

Section 10139. Workers' Compensation Claim Form (DWC 1) and Notice of Potential Eligibility

[See Proposed Revisions to Workers' Compensation Claim Form (DWC 1) and Notice of Potential Eligibility]

Authority: Sections 133 and 5307.3, Labor Code.

Reference: Sections 132(a), 139.5, 139.48, 139.6, 4600, 4600.3, 4601, 4604.5, 4616, 4650, 4656, 4658.5, 4658.6, 4700, 4701, 4702, 4703, 5400, 5401, 5401.7 and 5402, Labor Code.