

Medical Provider Network Regulations	WRITTEN COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
General	Employers and employees have a hard time confirming if a provider is in the MPN. There should be a point of contact or reference to site to confirm that a certain provider is acceptable	Frank Huljev, D.C., QME Palm Medical Group e-mail June 29, 2005	We disagree. Section 9767.12 requires an initial notification that states how to contact the MPN contact and to provide a toll free telephone number. The notification must also state how to review, receive or access the MPN provide directory. The complete provider listing must be made available in writing and the URL address must be given if the list is maintained on a website.	None.
General	Carriers will not give out whole provider list because they want injured workers to treat with providers that have the biggest discount. The whole list should be the default list.	Frank Huljev, D.C., QME Palm Medical Group e-mail June 29, 2005	We agree with the comment, and section 9767.12 requires that the complete provider listing must be made available in writing.	None.
General	Specialists MPN provider lists should be big enough to allow reasonable access to specialist on referrals.	Frank Huljev, D.C., QME Palm Medical Group e-mail June 29, 2005	We agree. Section 9767.5 requires at three physicians of each specialty within 60 minutes or 15 miles of each covered employee's residence or workplace. The appointment with the specialist must be available within 20 business days of the MPN applicant's receipt of a referral to a specialist.	None.
Section 9767.1(20)	"A mile radius" should be a "15-mile radius."	James Swanson Church Mutual Letter June 29, 2005	We disagree. The program may prepare the radius listing in increments of less than 15 miles.	None.
Section 9667.3(C)	Any omission that the applicant is not notified of by the state within 20 working days shall not constitute a basis for lack of approval of the application. However, the error or omission will have to be corrected within 90 days or the applicant will be subject to a \$5000 per month administrative penalty.	James Swanson Church Mutual Letter June 29, 2005	We disagree. The statute does not provide for fines. Also, the statute provides for a 60 day period to act.	None.
Section 9767.8(a)(1) and (2)	The networks cannot notify the DWC before the change occurs. The reporting of the	James Swanson Church Mutual	We disagree. The insurer/employer can anticipate changes before they	None.

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	change should occur within 20 days of knowledge. Also, networks may be reluctant to expand if they are not confident that they can expand.	Letter June 29, 2005	occur. Further, by submitting the plan before the change occurs, the insurer/employer can take the appropriate corrective action if the modification is not approved. Further, the insurer/employer should be monitoring the MPN to ensure that proper access is maintained.	
Section 9767.9(b)	Opposes the language that allows a predesignated physician to refer outside the MPN and opposes allowing a physician to make referrals outside the MPN prior to the employee being transferred into the MPN.	Bill Lopez The City of San Diego Letter July 6, 2005	We disagree. The predesignated physician would not be familiar with the MPN rules, procedures and other MPN physicians. If an employee is not transferred into the MPN, then the employee's treatment, including referrals, is outside the MPN.	None.
General	<p>Many carriers are employing "contract stacking" or "silent PPO" techniques to apply discounted rates to providers without the consent of the providers. Preferred the previous June version of the contract language in the regulations. The newer version no longer requires that the providers agreed to the terms of treating workers compensation patients.</p> <p>Recommends two options:</p> <ol style="list-style-type: none"> 1) By submission of the application, the MPN applicant is confirming that a SPECIFIC contractual agreement exists with the MPN network and the physicians, providers or medical group practice in the MPN to SPECIFICALLY provide treatment for the injured workers in the workers' compensation system... 2) By submission of the application, the MPN applicant is confirming that a 	William Fehrenbach Medtronic Letter, July 11, 2005	We disagree. Some of these issues will be addressed when the DWC prepares regulations implementing Labor Code section 4609. The current language requires the contracts to conform to the Labor Code requirements and confirms that the physicians in the MPN will treat injured workers in the workers' compensation system.	None.

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	<p>contractual agreement in which the providers have SPECIFICALLY agreed to provide treatment for injured workers in the workers' compensation system exists either between the MPN network and the physicians, providers or medical group practice in the MPN ...</p> <p>Attached Minnesota law as an example, which requires affirmative provider consent and prevents health plans from requiring provider participation in additional new markets.</p>			
Section 9767.15	Agrees that phase in time is necessary, but recommends a delayed but certain date – suggests 12 months after final adoption of permanent rule if modification not submitted first.	William Fehrenbach Medtronic Letter, July 11, 2005	We disagree. The insurer/employers will be required to update the MPNs to comply with the permanent regulations as soon as the MPN submits a modification. It is expected that almost all MPNs will be making a change that will trigger the requirement to file a modification within a 12 month period.	None.
Section 9767(a)(2)	Change “a radius” to “a 15 mile radius.”	Brenda Ramirez CWCI Letter, July 13, 2005	We disagree. The program may prepare the radius listing in increments of less than 15 miles.	None.
Section 9767.5(h)	Recommends changing the phrase “the covered employee may select a specialist from outside the MPN” to having the employee select from a list of relevant non-network specialists provided by the MPN.	Brenda Ramirez CWCI Letter, July 13, 2005	We disagree. The insurer/employer may control the specialists by including them within the MPN.	None.
Section 9767.8	Recommends changing requirement to file Modification prior to change to 10 business days after change.	Brenda Ramirez CWCI Letter, July 13, 2005	We disagree. The insurer/employer can anticipate changes before they occur. Further, by submitting the plan before the change occurs, the insurer/employer can take the	None.

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			appropriate corrective action if the modification is not approved. Further, the insurer/employer should be monitoring the MPN to ensure that proper access is maintained.	
Section 9767.8(a)(3)(4) and (9)	Recommends changing the word “material change” to “substantive change,” as stated in Labor Code section 4616.2.	Brenda Ramirez CWCI Letter, July 13, 2005	We agree to make this change to conform to statute.	We will make this non-substantive change.
Section 9767.9	“90 days” in (e)(2) should be changed to three months” to be the same as (e)(1).	Brenda Ramirez CWCI Letter, July 13, 2005	We agree to change three months to 90 days to be consistent.	We will make this non-substantive change.
Section 9767.9(g)	Recommends amending to: “If the injured covered employee disputes the medical determination under this section, the injured covered employee shall, <u>within 10 business days, notify the claims administrator and</u> request a report from the covered employee’s primary treating physician that addresses whether the covered employee falls within any of the conditions set forth in subdivisions (e) (1-4). The treating physician shall provide the report to the <u>claims administrator and</u> the covered employee within twenty calendar days of the request. If the covered employee fails to make a timely request for a report from the treating physician or the treating physician fails to issue the report, then the determination made by the employer or insurer referred to in (f) shall apply.	Brenda Ramirez CWCI Letter, July 13, 2005	We disagree. The ten day limitation may overly restrictive depending on the facts of the case.	None.
Section 9767.12(a)	Recommends deleting the requirement to provide notice 30 days prior to the implementation of the MPN.	Brenda Ramirez CWCI Letter, July 13, 2005	We disagree. The prior notice provides the employees with an opportunity to review the list of MPN physicians prior to the inception of the MPN in order to decide whether or not to predesignate a personal	None.

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Section 9716.15	Recommends deleting subsection 1 through 5 and instead referencing the changes listed in section 9767.8.	Brenda Ramirez CWCI Letter, July 13, 2005	physician. We disagree. The specific sections listed are those which differ significantly between the emergency regulations and the proposed permanent regulations. Therefore, when the MPN makes a modification, the DWC requires a specific verification that the MPN either does or has been updated to comply with these significant sections of the permanent regulations. The effect will be that MPN previously approved under the emergency regulations will eventually also comply with the permanent regulations.	None.
Section 9767.1	The minimum requirement of 15 miles is helpful, but the increase in increments by 5 miles should have a cap of 30 miles to be consistent with the accessibility requirements for MPN approval of three specialists within 30 miles.	Tim Hoops Blue Cross Life and health Letter, July 13, 2005	We disagree. The purpose of this section is to provide at least three choices to the employee, including employees in rural areas.	None.
Section 9767.3 (d)(8)(C) and (e)(16)(G)	This section does not sufficiently describe the contractual relation that payors who contract with PPO networks or deemed entities have with the providers. Suggests adding phrase: "or the PPO network which has contracts with physicians, providers or medical group practice in the MPN"	Tim Hoops Blue Cross Life and health Letter, July 13, 2005	We disagree. The section as it is currently written would include PPO networks.	None.
Section 9767.12	Concerned that employee notification requires MPN to provide a full list of providers upon request. MPN should only be required to provide a regional directory at maximum.	Tim Hoops Blue Cross Life and health Letter, July 13, 2005	We disagree. If a covered employee would like a full list of providers, it should be made available.	None.
Section 9767.10(d)(2)	The word "to" is missing from the sentence beginning "The treating physician shall provide the report..."	Mark Webb American International Companies	We agree.	We will correct this typo.

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Section 9767.10(d)(2)	The employer or insurer should also receive the report. Section 9767.9(g) suffers from the same lack of notice to the employer or insurer.	Letter, July 13, 2005 Mark Webb American International Companies Letter, July 13, 2005	We disagree that the section needs to be changed. If after receiving the report the employee still disagrees with the insurer/employer determination, then the employee or the physician will forward the report to the claims administrator in order to dispute the transfer of care.	None.
Section 9767.3(d)(8)(C) and (e)(16)	It is unclear re what the employer or insurer is supposed to confirm re compliance with Labor Code section 4609.	Mark Webb American International Companies Letter, July 13, 2005	We disagree that it is unclear. The MPN applicant is confirming that the physician, provider and medical group contracts are in compliance with Labor Code section 4609.	None.
Section 9767.1	In (a)(20)(B), shouldn't it say "15-mile radius" instead of "a radius"? In (a)(20)(B)(2), if the employer/insurer is able to provide the 15 mile radius listing that provides adequate access, why should the employee be able to request a listing for all of LA county? How the DWC envision the 15 mile radius being applied if the employee's home is 75 miles from his worksite?	Samuel Sorich Association of California Insurance Companies Letter, July 13, 2005	No. The program may prepare the radius listing in increments of less than 15 miles. The employee is entitled to a complete listing of the MPN providers. So, if the employee should be allowed to request a county wide listing if he or she chooses.	None None
Section 9767.3(d)(8)(C) and (e)(16)	This is an improvement. However. The MPN applicant may not have first hand knowledge of the contractual relationships between a network and the individual providers.	Samuel Sorich Association of California Insurance Companies Letter, July 13, 2005	We disagree. Labor Code section 4609 prevents the improper selling, leasing or transferring of a health care provider's contract, which is an abuse that could occur within MPN networks. The DWC has authority over the MPN applicant, not the networks. Therefore, the MPN applicant must determine if the contracts are in compliance and the statement must be from the MPN applicant.	None.

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Section 9767.4	Shouldn't there also be a check box for CIGA?	Samuel Sorich Association of California Insurance Companies Letter, July 13, 2005	No, because CIGA is within the definition for an insurer, and therefore can check the insurer box.	None.
Section 9767.8 (a)(1) and (2)	The modification standards ought to be deleted or re-thought as stated in the June 10 e-mail.	Samuel Sorich Association of California Insurance Companies Letter, July 13, 2005	We disagree. See the response to the June 10 comment.	None.
Section 9767.8 (a)(3), (4) and (9)	Agrees with CWCI's comments.	Samuel Sorich Association of California Insurance Companies Letter, July 13, 2005	See responses to CWCI's comments.	None.
Section 9767.9(e)(1) and (2)	Agrees with CWCI that the time period language ought to be consistent.	Samuel Sorich Association of California Insurance Companies Letter, July 13, 2005	We agree.	We will correct this non-substantive error.
Section 9767.9(g)	Agrees with CWCI's comments.	Samuel Sorich Association of California Insurance Companies Letter, July 13, 2005	See response to CWCI comment.	None
Section 9767.15	Agrees with CWCI's comments.	Samuel Sorich Association of California Insurance Companies Letter, July 13, 2005	See response to CWCI comment.	None.
Section 9767.3	Agrees with amended language.	Jose Ruiz SCIF Letter, July 13, 2005	We agree.	None.
Section 9767.8(a)(1)	It is unclear why approval is needed for maintained or improved access ratios. Recommends deleting "change" and replacing it with "net decrease" re the number of providers.	Jose Ruiz SCIF Letter, July 13, 2005	We disagree. The net decrease would not show a change or decrease in the types of specialists. Further, the insurer/employer should be monitoring the MPN to ensure that proper access is maintained.	None.
Section 9767.8(a)(3)(4) and (9)	Disagrees with changing the "material" to "substantive."	Jose Ruiz SCIF Letter, July 13, 2005	We agree. We will correct to comply with the statute.	We will correct this non-substantive error.
Section 9767.15	Agrees that previously approved MPN should	Jose Ruiz	We agree that the section does not	None.

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	not be required to submit modifications to comply with permanent regulations.	SCIF Letter, July 13, 2005	need to be amended.	
Section 9767.1(a)(20)	Does not oppose an initial limited list of providers.	Mark Gerlach CAAA July 13, 2005	We agree.	None.
Section 9767.6(d)	<p>Urges DWC to revise regulations to include specific requirement that the adjuster shall provide a list of MPN providers to the injured worker and the injured worker's representative, if any, upon request.</p> <p>(6) The insurer shall provide to the employee a written notice 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. This notice shall be provided in both English and Spanish and shall, in simplified terms, describe the method by which the list of participating providers may be accessed by the employee. The notice shall include both a toll-free telephone number and a mailing address from which the employee, or the employee's attorney, if he or she is represented, may request a list of participating providers. Within 24 hours of receiving either an oral or written request for a list of providers, an appropriate list, either a regional area list or, if requested, a complete list of providers, shall be placed in the mail to the worker or the worker's representative.</p>	Mark Gerlach CAAA July 13, 2005	<p>We disagree that the section needs to be amended. Proposed section 9767.12 requires the initial notice to state: "How to review, receive or access the MPN provider directory. Nothing precludes an employer or insurer from initially providing covered employees with a regional area listing of MPN providers in addition to maintaining and making available its complete provider listing in writing. If the provider directory is also accessible on a website, the URL address shall be listed."</p> <p>It clearly requires that the complete listing must be made available in writing.</p>	None.
Section 9767.9(f)	Concerned the change adds confusion. The change eliminates the specific language that required the insurer or employer to make a determination of the employee's condition. Recommends amending (f) to specify that the insurer or employer must first determine that the employee's condition does not meet any of	Mark Gerlach CAAA July 13, 2005	We disagree. Subdivision (f) requires the employer/insurer to notify the covered employee of the determination regarding the completion of treatment and the decision to transfer.	None.

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	the exceptions in (e) before notifying the employee of the transfer to an MPN.			
Section 9767.15	<p>Believes section conflicts with Labor Code section 4616 et seq. and creates unfair playing field providing those MPNs who applied early with a competitive advantage. Labor Codes section 4616 does not provide authority to treat some MPNs differently than others.</p> <p>A phase in period should be codified and apply across the board.</p>	Hans Lee CMA 2 letters dated July 13, 2005	We disagree. The MPNs that were approved under the emergency regulations complied with the law at the time of the approval. Section 9767.15 requires that when the MPN makes a modification, the DWC requires a specific verification that the MPN either does or has been updated to comply with significant sections of the permanent regulations. The effect will be that MPN previously approved under the emergency regulations will eventually also comply with the permanent regulations.	None.
Section 9767.1	<p>Add: "But not to exceed a radius greater than the maximum access standard as stated in section 9767.5(a).</p> <p>D) If three physicians of each type cannot be found within the minimum access standards as stated in section 9767.5(a), the MPN application will be deemed non-compliant.</p>	Steve Cattolica California Society of Industrial Medicine & Surgery Email dated July 14, 2005	We disagree. The purpose of this section is to provide at least three choices to the employee, including employees in rural areas.	None.
Section 9767.3(d)(8)(C)and (e)(16)	The amended language essentially guts the DWC's original "reason" stated in May to address and prohibit "leased" networks. The May changes should be reinstated.	Steve Cattolica California Society of Industrial Medicine & Surgery Email dated July 14, 2005	We disagree. The insurer/employer is still required to confirm that the contracts comply with Labor Code section 4609.	None.