

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.1(a)(1)	<p>Commenter recommends the following revised language:</p> <p>Commenter notes that the Third Party Administrators (TPAs) are not included by name amongst the entities that can be MPN Applicants. Commenter opines that it may be that DWC believes that TPAs “stand in the shoes” of the employer or insurer as described in Section 9767.1, but commenter opines that TPAs should be specifically listed in each of these definitions. Alternatively, the all inclusive term, “Claims Administrator” could be added to the definitions sections and then used throughout these regulations instead of “employer” and “insurer”.</p>	<p>Steven Suchil Assistant Vice President/Counsel American Insurance Association September 27, 2013 Written Comment</p>	<p>Accept in part. Reject in part. Accept: Revision to the regulatory text will include “third party administrators,” as an example of an entity that may qualify as an “entity that provides physician network services.”</p> <p>Reject: The current regulatory text addresses this concern and allows claims administrators to be MPN Applicants.</p>	<p>§9767.1(a)(1) will be revised to include “third party administrators.”</p>
9767.1(a)(1)	<p>Commenter recommends the following revised language:</p> <p>Ancillary services” means any provision of medical services or goods as allowed in Labor Code section 4600 by a non-physician including but not limited to, interpreter services, allied health professionals (physical therapy, occupations therapy, speech therapy, audiologists, etc.), and PBM (Pharmacy Benefit Management).</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Accept in part. Reject in part. Revision to the regulatory text will include “but not limited to,” which will clarify that additional types of ancillary services may be provided without needing to list each of them, unnecessarily.</p>	<p>§9767.1(a)(1) will be revised to include “but not limited to.”</p>
9767.1(a)(1)	<p>Commenter recommends the following revised language:</p>	<p>Steven Suchil Assistant Vice</p>	<p>Accept in part. Reject in part. Revision to the regulatory text</p>	<p>§9767.1(a)(1) will be revised to include</p>

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	<p>(a)(1)“Ancillary services” means any provision of medical services or goods as allowed in Labor Code section 4600 by a non-physician, including <u>but not limited to</u> interpreter services, physical therapy, <u>occupational therapy, home health services, copy services, transportation,</u> and pharmaceutical services.</p> <p>Commenter states that his charge should be made to clarify that “other medical providers” includes all entities encompassed in the ancillary service definition.</p>	<p>President/Counsel American Insurance Association September 27, 2013 Written Comment</p>	<p>will include “but not limited to,” which will clarify that additional types of ancillary services may be provided without needing to list each of them unnecessarily.</p>	<p>“but not limited to.”</p>
<p>9767.1(a)(1)</p>	<p>Commenter notes that the proposed definition of "ancillary services" has been amended to include "interpreter services, physical therapy, and pharmaceutical services." Commenter opines that this amendment is inconsistent with the Medical Provider Network (MPN) statutory language and should be revised. Most importantly, the reference to "interpreter services" should be deleted from this paragraph.</p> <p>Commenter notes that the nature and scope of MPNs are defined in Labor</p>	<p>California Applicants’ Attorneys Association September 29, 2013 Written Comment</p>	<p>Reject. The reference to “interpreter services” is a clarification of an existing right of an MPN to provide necessary ancillary services to effectuate Labor Code 4616 and 4600.</p> <p>Reject. DWC is authorized to make the proposed changes to</p>	<p>None.</p> <p>None.</p>

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	<p>Code section 4616, subdivision (a). That statute provides that "an insurer, employer, or entity that provides physician network services may establish or modify a medical provider network for the provision of medical treatment to injured employees." Networks are to include "physicians primarily engaged in the treatment of occupational injuries" and the AD is to "encourage the integration of occupational and nonoccupational providers." "The number of physicians" in an MPN must be sufficient to provide timely treatment, and the MPN must include an adequate number and type of physicians, as described in Section 3209.3, or other providers, as described in Section 3209.5, to treat common injuries experienced by injured employees based on the type of occupation or industry in which the employee is engaged, and the geographic area where the employees are employed." [Emphasis added.]</p> <p>Based on this statutory language, commenter states that it is clear that an MPN is to consist solely of "medical providers." There is no use of the term</p>		<p>the MPN regulations that would expressly authorize interpreters to be included in an MPN as ancillary service providers (8 CCR §§ 9767.1 &amp; 9767.3) because Labor Code section 4616 states that an MPN may be established "for the provision of medical treatment to injured workers," and section 4600 describes medical treatment expansively to include all reasonably required services, not limited to physicians. In <u>Guitron v. Santa Fe Extruders</u> (2011) 76 Cal. Comp. Cases 228, the WCAB <i>en banc</i> interpreted Section 4600 to include the right to an interpreter as part of medical treatment, and that judicial interpretation was codified in Section 4600(g).</p> <p>Reject: Labor Code section 4616 <i>et seq.</i> does not expressly limit an MPN to only the providers described in section</p>	<p>None.</p>

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	<p>"ancillary services" in the MPN statutes. The single reference to "other providers" in Article 2.3 (Medical Provider Networks) of the Labor Code is the above-cited sentence in section 4616(a) that refers to other providers "as described in Section 3209.5." Providers that are described section 3209.5 include "physical therapists, chiropractic practitioners, and acupuncturists. . . ."</p> <p>Although SB 863 amended Labor Code section 4600 to confirm that an injured employee has the right to interpreter services during medical treatment appointments, commenter opines that amendment does not signify that the interpreter should be considered a "medical provider." Commenter states that there is neither legal nor practical justification for including "interpreter services" in the definition of "ancillary services."</p> <p>In order to conform to the language of the authorizing statute, the commenter recommends that the definition of "ancillary services" be amended to read:</p>		<p>4616, subdivision (a)(1). In fact, the statute would appear to encourage ancillary service under an MPN, as subdivision (a)(2) provides, "To the extent feasible, all medical treatment for injuries shall be readily available to all employees." DWC has interpreted the statutes as allowing DWC to authorize MPNs to include other providers, including interpreter providers.</p>	

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	<p>(1) "Ancillary services" means any provision of medical services or goods as allowed in Labor Code section 4600 by a non-physician provider as described in Labor Code section 3209.5.</p> <p>Commenter states that as an alternative, if the definition of "ancillary services" is not corrected to delete interpreter services then language must be added to this section that interpreters are subject to the requirements of Labor Code section 4616(a)(4) with regard to the MPN posting on its Internet Web Site a roster of all interpreters in the MPN and shall update the roster at least quarterly in the same manner as is currently required for treating physicians.</p>		<p>Reject: The regulations do not define interpreters as medical providers, and the Labor Code does not require that they be subject to the same MPN requirements as physicians.</p>	<p>None.</p>
9767.1(a)(1)	<p>Commenter recommends the following revised language:</p> <p>(a)(1) "Ancillary services" means any provision of medical services or goods as allowed in Labor Code section 4600 by a non-physician, including <u>but not limited to</u> interpreter services, physical therapy, pharmaceutical services, <b>occupational therapy,</b></p>	<p>Jeremy Merz California Chamber of Commerce</p> <p>Jason Schmelzer California Coalition on Workers' Compensation September 30, 2013 Written Comment</p>	<p>Accept in part. Reject in part. Revision to the regulatory text will include "but not limited to," which will clarify that additional types of ancillary services may be provided without needing to list each of them, unnecessarily.</p>	<p>The regulation will be revised to include "but not limited to."</p>

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	<p><b><u>physical rehabilitation, home health services, nursing, medical case management, ergonomic evaluations, work conditioning/work hardening, emergency and non-emergency medical transportation services, radiology, medical &amp; surgical supplies, implantable drug delivery systems, spinal cord stimulators, durable medical equipment, power mobility devices, devices used to deliver electrical current, sound waves, magnetic fields, vibration or stimulation to any part of the body through any means, chronic pain programs/functional restoration programs and detoxification programs.</u></b></p> <p>Commenter states that “ancillary services” allowed pursuant to Labor Code section 4600 includes these additional services listed within the suggested amendments. Commenter opines that harmonizing this regulation with the Labor Code and increasing the list of enumerated services will reduce disputes over the definition of “ancillary services.”</p>			
9767.1(a)(1)	Commenter recommends the	Mark Sektnan,	Accept in part. Reject in part.	The regulation will

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	<p>following revised language:</p> <p><b>(a) (1) “Ancillary services” means any provision of medical services or goods as allowed in Labor Code section 4600 by a non-physician, <u>including but not limited to hospital, ambulatory surgery centers, home health care, transportation and interpreter services, physical therapy and pharmaceutical services.</u></b></p> <p>Commenter suggests expanding the definition to list the services allowed pursuant to section 4600, which will reduce the number of disputes and questions over which services are considered “ancillary services”. ”. Commenter is not be opposed to further expansion of the items listed as being included to reduce the potential for litigation so long as the list is illustrative and not limited to the listed items.</p>	<p>President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Revision to the regulatory text will include “but not limited to,” to clarify that additional types of ancillary services may be provided without needing to list each of them, unnecessarily.</p>	<p>be revised to include “but not limited to.”</p>
9767.1(a)(1)	<p>Commenter recommends the following revised language:</p> <p>“(1) ‘Ancillary services’ means any provision of medical services or goods as allowed in Labor Code section</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p>	<p>Accept: Revision to the regulatory text will be revised to clarify that additional types of ancillary services may be provided.</p>	<p>The regulation will be revised to include “but not limited to.”</p>

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	<p>4600 by a non-physician, including <u>but not limited to</u> interpreter services, physical therapy, and pharmaceutical services.”</p> <p>Commenter opines that the proposed inclusion of types of ancillary services in subdivision (a)(1) is restrictive and appears to limit the selection for the injured employee. Commenter states that the definition should be clear to state that ancillary services are not constrained only to interpreter services, physical therapy, and pharmaceutical services. Commenter opines that expanding the definition will reduce the number of disputes over which specific services are considered “ancillary services”.</p>	<p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>		
9767.1(a)(1)	<p>Commenter recommends the following revised language:</p> <p>“Ancillary services” means any provision of medical services or goods as allowed in Labor Code section 4600 by a non-physician, including <u>but not limited to</u> interpreter services, physical therapy, and pharmaceutical services.</p> <p>Commenter opines that it is necessary</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Accept: Revision to the regulatory text will be revised to clarify that additional types of ancillary services may be provided.</p>	<p>The regulation will be revised to include “but not limited to.”</p>

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	to clarify that ancillary services are not limited to interpreter services, physical therapy, and pharmaceutical services to avoid disputes over whether or not ancillary services include those services.			
9767.1(a)(1)	<p>Commenter vehemently opposes the inclusion of “interpreter services” under the definition of “ancillary services.”</p> <p>Commenter opines that neither the enabling legislation nor any legislative history of the creation of MPNs contemplates or authorizes the inclusion of interpreting services within the services provided by medical provider networks.</p> <p>Labor Code Section 4616(a)(1) specifies that the purpose of a MPN is for the "provision of medical treatment to injured workers." [emp. added] It goes on to provide that, "[t]he provider network shall include an adequate number and type of physicians, as described in Section 3209.3, or other providers, as described in Section 3209.5, to treat common injuries experienced by injured employees .... " Labor Code Section 3209.5 lists the</p>	<p>Adriana Camastra September 30, 2013 Written Comment</p> <p>Alicia H. Rodriguez September 30, 2013 Written Comment</p> <p>Ana Garcia October 1, 2013 Written Comment</p> <p>Andres Marquez September 30, 2013 Oral Comment</p> <p>Angelica Mendez September 30, 2013 Oral Comment</p> <p>Bill Posada, Controller Interpreters Network September 30, 2013 Written Comment</p>	<p>Reject. The reference to “interpreter services” is a clarification of an existing right of an MPN to provide necessary ancillary services to effectuate Labor Code 4616 and 4600.</p> <p>Reject. See response below.</p> <p>Reject. DWC is authorized to make the proposed changes to the MPN regulations that would expressly authorize interpreters to be included in an MPN as ancillary service providers (8 CCR §§ 9767.1 &amp; 9767.3) because Labor Code section 4616 states that an MPN may be established “for the provision of medical treatment to injured workers,”</p>	<p>None.</p> <p>None.</p> <p>None.</p>

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	<p>non-physician "other providers" to include physical therapists "as licensed by California state law and within the scope of their practice as defined by law. Language interpreters are not listed in Section 3209.5 but from the other enumerated professions listed therein, it is clear that the Legislature intended the term "other providers" to be those who provide hands-on health care for which a state license is required. Interpreters do not treat. They simply facilitate communication so the physician can properly treat the patient.</p> <p>Commenter opines that language interpreting services are not included in the definition of "medical treatment" as that term is used in Labor Code Section 4600(a). Commenter opines that it was not the Legislature's intent to include interpreters because if it had wanted language interpreting services to be "medical treatment" it would have included the term in subdivision (a) when it amended Labor Code Section 4600 last year in SB 863. On the contrary, the Legislature added a new subdivision (g) to Labor Code Section</p>	<p>Oral Comment Bradley Bowen September 30, 2013 Oral Comment Bruce E. Dizenfeld Theodora Orgingher Counselors at Law September 26, 2013 Written Comment Carla Valerio September 29, 2013 Written Comment Carlyle Brakensiek AdvoCal September 30, 2013 Written Comment Oral Comment Cata Gomez September 27, 2013 Written Comment Caterina Cruz September 26, 2013 Written Comment Carnelia Harmon</p>	<p>and section 4600 describes medical treatment expansively to include all reasonably required services, not limited to physicians. In <u>Guitron v. Santa Fe Extruders</u> (2011) 76 Cal. Comp. Cases 228, the WCAB <i>en banc</i> interpreted Section 4600 to include the right to an interpreter as part of medical treatment, and that judicial interpretation was codified in Section 4600(g).</p> <p>Reject: Labor Code section 4616 <i>et seq.</i> does not expressly limit an MPN to only the providers described in section 4616, subdivision (a)(1). In fact, the statute would appear to encourage ancillary service under an MPN, as subdivision (a)(2) provides, "To the extent feasible, all medical treatment for injuries shall be readily available to all employees." DWC has interpreted the statutes as allowing DWC to authorize MPNs to include</p>	<p>None.</p>

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	<p>4600 clearly demonstrating the intent to treat language interpreting services differently from "medical treatment."</p> <p>Commenter opines that DWC's attempt to bootstrap the definition of ancillary services to include language interpreting services could have costly and devastating unintended consequences for MPNs. For example, if DWC claims that language interpreting services are "medical treatment," how does that comport with Labor Code Section 4616(e) which provides that, "[a]ll treatment provided [by an MPN] shall be provided in accordance with the medical treatment utilization schedule established pursuant to Section 5307.27"? Commenter notes that the MTUS has no guidelines whatsoever with regard to language interpreting. Second, if language interpreting is considered medical treatment, is a dispute over the need for, or accuracy of, interpreting services subject to utilization review (UR) and independent medical review (IMR)? What skills, if any, does Maximus have to resolve such disputes?</p>	<p>August 22, 2013 Written Comment</p> <p>Carolyn Bouchard September 30, 2013 Oral Comment</p> <p>Darrin Altman September 30, 2013 Written Comment</p> <p>Debra Marchevsky September 30, 2013 Oral Comment</p> <p>Elisa Royo-Camacho September 30, 2013 Written Comment</p> <p>Esmy Villacreses September 20, 2013 Written Comment</p> <p>Eugenia Richichi September 30, 2013 Written Comment</p> <p>Gabriela Ortiz September 30, 2013 Written Comment</p>	<p>other providers, including interpreter providers.</p> <p>Reject: Section 4600 describes medical treatment expansively to include all reasonably required services, not limited to physicians. In <u>Guitron v. Santa Fe Extruders</u> (2011) 76 Cal. Comp. Cases 228, the WCAB <i>en banc</i> interpreted Section 4600 to include the right to an interpreter as part of medical treatment. Therefore, these regulations comport with Labor Code section 4616(e) if the interpreter services is reasonably required to properly communicate so that medical treatment can be provided in accordance with 5307.27.</p> <p>Reject: A dispute regarding language interpreting does not relate to the reasonableness and necessity of medical treatment but, rather, will be a factual legal dispute that will not be subject to IMR review.</p>	<p>None.</p> <p>None.</p>

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	<p>Commenter notes that the Legislature has mandated that physicians be sensitive to the cultural and linguistic needs of their patients, including the use of appropriate language interpreters. The selection of the proper interpreter for a particular patient is a complex task and must not be left to an adjuster simply deciding to send someone out from the pool. In order to comply fully with the scope and intent of medical provider networks, each MPN will be forced to demonstrate that it has a cadre of certified interpreters in many languages and dialects as well as ensuring that they are also culturally appropriate for each individual injured worker. If a particular MPN could not supply a linguistically and culturally appropriate language interpreter, it would be a denial of medical treatment entitling the worker to treat outside the MPN.</p> <p>Commenter notes that language interpreters must remain impartial at all times. Commenter states that it is inappropriate if not unethical for them to be beholden to the employer or</p>	<p>Gilbert Calhoun California Worker' Compensation Interpreters Assoc. September 30, 2013 Written Comment Oral Comment</p> <p>Guadalupe Favela September 30, 2013 Oral Comment</p> <p>Maria Siono September 30, 2013 Oral Comment</p> <p>Mike Noushfar September 30, 2013 Oral Comment</p> <p>Mina Thorlaksson September 26, 2013 Written Comment</p> <p>H. Hollie Rutkowski September 27, 2013 Written Comment</p> <p>Iris Van Hemert September 30, 2013 Oral Comment</p>		

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	<p>insurer through mandatory participation in an MPN.</p> <p>Commenter is aware of many occasions where physicians have complained about the competence and/or appropriateness of a language interpreter supplied by the adjuster. The right language interpreter facilitates appropriate medical treatment through open, rational and accurate translation. Choosing the right interpreter is more complicated than meets the eye, but if DWC elevates language interpreting to the level of medical treatment," there will be a host of unintended consequences that will delay care and drive up employers' costs.</p> <p>Commenter urges the division to revise this section to remove reference to "interpreter services."</p> <p>The division has received many comments detailing personal concerns and experiences of language interpreters. These comments are available upon request.</p>	<p>Isis Bolanos September 30, 2013 Written Comment</p> <p>Joan Jurado Blanco September 30, 2013 Written Comment</p> <p>John Marquez September 30, 2013 Oral Comment</p> <p>Joyce Altman September 30, 2013 Oral Comment</p> <p>Leslie Fonseca Deco Interpreting September 30, 2013 Written Comment</p> <p>Loraine Morell September 30, 2013 Oral Comment</p> <p>Lorena Villatoro September 30, 2013 Written Comment</p> <p>Lucia Aguilar-</p>		

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		<p>Navarro September 30, 2013 Written Comment</p> <p>Lupe Manriquez September 30, 2013 Oral Comment</p> <p>“mhinterpeta” Anonymous September 30, 2013 Written Comment</p> <p>Maria Aguirre September 30, 2013 Written Comment</p> <p>Maria Palacio September 30, 2013 Written Comment</p> <p>Maria Seras September 30, 2013 Oral Comment</p> <p>Maribel Tossman September 27, 2013 Written Comment</p> <p>Marisol Escalera September 30, 2013</p>		

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		<p>Written Comment</p> <p>Mark Gerlach September 30, 2013 Oral Comment</p> <p>Nina Mortensen Undated Written Comment</p> <p>Olimpia Black September 9, 2013 Written Comment</p> <p>Pilar Garcia September 30, 2013 Oral Comment</p> <p>Raul Beguiristain September 30, 2013 Oral Comment</p> <p>Raymond Chon Ace Life Inc. August 22, 2013 Written Comment</p> <p>Renee Ennabe September 30, 2013 Oral Comment</p>		

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		<p>Robert Duran September 30, 2013 Oral Comment</p> <p>Rod Olguin September 30, 2013 Oral Comment</p> <p>Rosela Castillo Castillo Interpreting September 30, 2013 Written Comment</p> <p>Roseli Rossi September 30, 2013 Written Comment</p> <p>S. James Tsui September 29, 2013 Written Comment</p> <p>Tania England September 30, 2013 Written Comment</p> <p>Veronica Jenks September 30, 2013 Oral Comment</p> <p>Victor Fridman September 30, 2013</p>		

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		<p>Oral Comment</p> <p>Victoria Torres September 30, 2013 Written Comment</p> <p>Yolanda Duran September 30, 2013 Oral Comment</p>		
9767.1(a)(1)	<p>Commenter notes that pharmacy services and included as ancillary benefits which is currently allowed under the law. Commenter is very supportive of the inclusion of pharmacy services in these regulations.</p> <p>Commenter states that under SB863 treatment from an out-of-network provider does not have to be paid by the employer or carrier. Commenter states that currently if an employer has pharmacy services as an ancillary benefit in their MPN they are still required to make payment on out-of-network claims. Commenter would like clarification as to whether this requirement will extend to ancillary providers in this regulation. Commenter opines that if this is the</p>	<p>Melissa Cortez-Roth Comp Pharma September 30, 2013 Oral Comment</p>	<p>Reject: Commenter states that under SB863 treatment from an out-of-network provider does not have to be paid by the employer or carrier. Assuming she is referring to Labor Code §4603.2(3), this will not apply to ancillary service providers because they are not physicians.</p>	None.

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	<p>case, she strongly recommends outlining a process on first fills or out-of-network claims in the instances where the network has not been identified by the pharmacy yet. Commenter opines that this would avoid significant confusion in the billing process and ensure that injured workers have access to timely medications on those first fills.</p>			
9767.1(a)(12)	<p>Commenter recommends the following revised language:</p> <p>Health care shortage” means a situation in which there are insufficient providers in a geographic area, or that do not have available appointments or do not wish to treat worker’ compensation or participate in an MPN to meet the Medical Provider Network access standards set forth in 9767.5(a) through (c) and provide timely medical assistance within the requisite time frames set forth in this article/ section 9767.5(f) or (g).</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Accept in part. Revision to the regulatory text will be revised to clarify the meaning of “available physicians” without needing to provide an unnecessary list of examples.</p>	<p>The regulation will be revised to include “who are available and willing to treat injured workers under the California workers’ compensation system.”</p>
9767.1(a)(12)	<p>Commenter recommends the following revised language:</p> <p>(a)(12) “Health care shortage” means a situation in either a rural or non-rural area in which there is an insufficient</p>	<p>Jeremy Merz California Chamber of Commerce</p> <p>Jason Schmelzer California Coalition</p>		

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	<p>number <b><u>and type</u></b> of physicians <del><b><u>in a particular specialty</u></b></del> to meet the Medical Provider Network access standards set forth in 9767.5(a) through (c) to ensure medical treatment is available and accessible at reasonable times. An insufficient number of physicians is not established when there are <b><u>more than the minimum number of</u></b> non-MPN physicians <del><b><u>in that specialty of that type in the area who are available and willing to treat injured employees in accordance with California workers' compensation laws</u></b></del> within the access standards.</p> <p>Commenter opines that the expanded specialty requirements in this section exceed DWC's authority to define physician types. It is well established that a regulation cannot alter or expand statutory language where that language is clear and unambiguous. <i>Morris v. Williams</i>, 67 Cal.2d 733, 748 (1967) ( "Administrative regulations that alter or amend the statute or enlarge or impair its scope are void....").</p> <p>Labor Code section 4616(a)(1) states</p>	<p>on Workers' Compensation September 30, 2013 Written Comment</p>	<p>Reject: Commenter recommends the use of the word "type" instead of "specialty" to describe how physicians are supposed to be categorized when determining if access standards are met. Labor Code §4616.3(d)(1) states, "Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician's <b><u>specialty</u></b> or recognized expertise in treating the particular injury or condition in question."</p>	<p>None.</p>

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	<p>that:</p> <p>“...the provider network shall include an adequate number and type of physicians, as described in Section 3209.3, or other providers, as described in Section 3209.5, to treat common injuries experienced by injured employees based on the type of occupation or industry in which the employee is engaged, and the geographic area where the employees are employed.”</p> <p>Commenter states that this section of the labor code makes clear that the type of physician needed for MPN statutory compliance is based on the injury treatment experience of an occupation or industry in a geographic area – not on a minimum number of specialists prescribed by regulation. Commenter opines that this proposed regulation exceeds the bounds of authority and will result in a costlier system that will not serve the medical needs of injured workers in particular geographic areas.</p>		<p>Reject: Disagree with commenter’s definition of “type” of physician. As mentioned in above response, Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.” In addition, a minimum of three physicians in each specialty are needed to fulfill access standards because of Labor Code §4616.3 requirements that specifically describes an injured worker’s right to seek a second and third opinion from physician’s in the MPN.</p>	<p>None.</p>
9767.1(a)(12)	<p>Commenter recommends the following revised language:</p>	<p>Mark Sektnan, President Association of</p>	<p>Reject: Commenter recommends the use of the word “type” instead of</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><b><u>(12) “Health care shortage” means a situation in either a rural or non-rural area in which there is an insufficient number and type of physicians in a particular specialty to meet the Medical Provider Network access standards set forth in 9767.5(a) through (c) to ensure medical treatment is available and accessible at reasonable times and willing to treat injured employees in accordance with the California workers’ compensation laws within the access standards.</u></b></p> <p>Commenter notes that Labor Code 4616 (a)(1) refers to “type” not “specialty”. Commenter opines that if the DWC insists on rewriting the stature to use specialists, then the last sentence should read something like “An insufficient number of physicians is not established when there are at least ___ non-MPN physicians in that specialty who (a) treat and accept workers compensation patients; (b) are available within the access standards; (c) are located in more than one location; and meet network standards for inclusion in an MPN. Commenter states that the number to be put in the</p>	<p>California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>“specialty” to describe how physicians are supposed to be categorized when determining if access standards are met. Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.”</p> <p>Reject: Disagree with commenter’s definition of “type” of physician. As mentioned in above response, Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.” In addition, a minimum of three physicians in each specialty are needed to fulfill access</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	blank space is open to discussion.		standards because of Labor Code §4616.3 requirements that specifically describes an injured worker’s right to seek a second and third opinion from physician’s in the MPN.	
9767.1(a)(12)	<p>Commenter recommends the following revised language:</p> <p>“Health care shortage” means a situation in either a rural or non-rural area in which there is an insufficient number <u>and type</u> of physicians in a particular specialty to meet the Medical Provider Network access standards set forth in 9767.5(a) through (c) to ensure medical treatment is available and accessible at reasonable times. An insufficient number of physicians is not established when there are <u>more than the minimum number of non-MPN physicians in that specialty of that type in the area who are available and willing to treat injured employees in accordance with California workers’ compensation laws</u> within the access standards.</p> <p>Please note her comments regarding 9767.1(a)(25)(C) regarding type of</p>	Brenda Ramirez Claims & Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments	Reject: Disagree with commenter’s definition of “type” of physician. As mentioned in above response, Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.” In addition, a minimum of three physicians in each specialty are needed to fulfill access standards because of Labor Code §4616.3 requirements that specifically describes an injured worker’s right to seek a second and third opinion from physician’s in the MPN.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>physician.</p> <p>Commenter opines that non-MPN physicians who are not willing and available to treat injured employees in accordance with California workers' compensation laws should not be counted when determining a health care shortage for workers' compensation purposes.</p>		<p>Agree: The regulatory text will be clarified so that only physicians in a particular specialty who are available and willing to treat injured workers will be counted when determining if there is a health care shortage.</p>	<p>§9767.1(a)(12) is revised to state "A lack of physicians participating in an MPN does not constitute a health care shortage where a sufficient number of physicians in that specialty are available within the access standards and willing to treat injured workers under the California workers' compensation system."</p>
9767.1(a)(12)	<p>Commenter is especially concerned with the definition of health care shortage as he opines that the definition should exclude providers that do not accept workers' compensation patients. Commenter opines that including all practitioners in a given geographic region, when not all of those practitioners will accept workers' compensation patients, severely overstates the ability</p>	<p>Greg Moore President, Harbor Health Systems One Call Care Management September 30, 2013 Written Comment Oral Comment</p>	<p>Agree in part. Revision to the regulatory text will be revised to clarify the meaning of "available physicians" without providing the unnecessary statement, "a shortage exists when there are fewer than six (6) providers in a geographic region if those providers accept workers' compensation patients."</p>	<p>The regulation will be revised to clarify the definition of Health Care Shortage means the number of physicians "who are available and willing to treat injured workers under the California workers' compensation system"</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	to procure providers. Commenter recommends that a shortage exists when there are fewer than six (6) providers in a geographic region if those providers accept workers' compensation patients.			is insufficient" to meet the Medical Provider Network access standards set forth in 9767.5(a) through (c) to ensure medical treatment is available and accessible at reasonable times.
9767.1(a)(13)	Commenter would like to know if it is correct to assume that the DWC intends that each individual underwriting company file a separate MPN application.	Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment	Reject. If the insurer underwriting company files an MPN application as an entity that provides physician network service, then a separate MPN Application is unnecessary.	None.
9767.1(a)(14)	<p>Commenter recommends the following revised language:</p> <p>“Medical Provider Network” (“MPN”) means a network of providers required by the regulations to meet access standards for all provider types required by the regulations (i.e., physicians, facilities, ancillary providers, etc.) established by the MPN applicant approved as a Medical Provider Network by the Administrative Director pursuant to Labor Code sections 4616 to 4616.7</p>	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment	Reject. The suggested language narrowly highlights the access standard requirements. This is confusing and too narrow because MPNs are approved pursuant to the statutory requirements set forth in Labor Codes section 4616 to 4616.7.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>and this article.</p> <p>Commenter states upon review of Labor Code sections 4616 and 4616.7 here may be a need for additional definitions.</p>		<p>Reject: The entire MPN regulations, 8 CCR sections 9767.1 – 9767.19 interprets the mandates of Labor Code sections 4616 – 4616.7.</p>	<p>None.</p>
<p>9767.1(a)(15)</p>	<p>Commenter recommends the following revised language:</p> <p>“Medical Provider Network Approval Number” means the unique number assigned by DWC to a Medical Provider Network <u>by name</u> upon approval and used to identify each approved Medical Provider Network.</p> <p>Commenter opines that clarifying that the Medical Provider Network Approval Number is attached to an MPN by name will eliminate confusion and will enable the use of a single identifier for an approved MPN, even if multiple log numbers are assigned for individual applications submitted to the Division to report the use of an approved MPN.</p> <p>Commenter urges the Division to consider allowing each approved</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: Unnecessary, the unique Medical Provider Network Approval Number will be assigned to each MPN.</p> <p>Reject: Unnecessary, the unique Medical Provider Network Approval Number will be assigned to each MPN.</p> <p>Reject: Unnecessary because this information is not useful to</p>	<p>None.</p> <p>None.</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>network to track and report to the Division the claims administrators who use its network. Commenter opines that this will significantly reduce the administrative burden for the Division and users alike. Claims administrators will continue to report network use and payments to WCIS.</p> <p>Commenter notes that the MPN name is required in the employee notification document. Commenter states that the Division can also require the approval number to appear in the notification document if necessary, although commenter believes that only the name is necessary.</p>		<p>DWC as it pertains to MPNs and these regulations.</p> <p>Reject: The MPN Approval Number shall also be contained in the complete employee notification pursuant to §9767.12(a)(2)(B).</p>	None.
9767.1(a)(16)	<p>Commenter recommends the following revised language:</p> <p>Medical Provider Network Medical Access Assistant means an individual in the United States whose duties are dedicated solely to providing assistance to injured workers to obtain medical treatment under a Medical Provider Network, including but not limited to assistance with finding available Medical Provider Network providers and assistance with</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: Although changes were made to the definition of Medical Provider Network Medical Access Assistant, the commenter's recommendations will not be adopted.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	scheduling Medical Provider Network provider appointments.			
9767.1(a)(16)	<p>Commenter recommends adding the following phrase to the end of this subsection:</p> <p><u>. but not including authorization for goods or services.</u></p> <p>Commenter opines that clarification is needed that assistance does not imply authorization for goods or services.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: Although this comment to did prompt any changes to section 9767.1(a)(16) and the definition, it prompted changes to section 9767.5(h)(2).</p>	<p>None to this section but section 9767.5(h)(2) was revised to add, "medical access assistants do not authorize treatment".</p>
9767.1(a)(17)	<p>Commenter recommends the following revised language:</p> <p>"Medical Provider Network Geographical Service Area" means the zip codes selected by the MPN applicant within California in which medical services will be provided by the Medical Provider Network.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The comment is substantively incorrect.</p>	<p>None.</p>
9767.1(a)(18)	<p>Commenter recommends the following revised language:</p> <p>"Medical Provider Network Plan" means a self-insured employer's or insurer's or an entity that provides healthcare network services detailed description for a Medical Provider Network contained in a complete application submitted to the</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The Labor Code and regulations consistently use the phrase "employers, insurers, or entity that provides physician network services" instead of the word "self-insured employer".</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Administrative Director by an MPN applicant.			
9767.1(a)(19)	<p>Commenter recommends the following revised language:</p> <p>“MPN Applicant” means an insurer or employer as defined in subdivisions (6) and (13) of this section, or an entity that provides Healthcare network services.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The term “entity that provides physician network services” is statutorily mandated.</p>	<p>None.</p>
9767.1(a)(19)	<p>Commenter recommends the following revised language:</p> <p>“MPN Applicant” means a <u>claims administrator</u> an insurer or employer as defined in subdivision <u>(35)s</u> (6) and (13) of this section, or an entity that provides physician network services as defined in subdivision (7). <u>that submits an application to the Division for approval or reapproval of an MPN.</u></p> <p>Commenter opines that the proposed change will allow a third party administrator (TPA) to submit an application for an MPN that can be used by its clients. This will eliminate unnecessary duplicate filings by the clients of TPAs.</p> <p>Please note her comment on</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: MPN Applicant is statutorily defined as “an insurer, employer or entity that provides physician network services.”</p> <p>Reject in part. Accept in part: An MPN Applicant is statutorily defined. However, it is DWC’s intent that (TPA) may submit an MPN Application as an “entity that provides physician network services”.</p>	<p>None.</p> <p>The definition of “entity that provides physician network services” was changed to provide several examples, “including but not limited to third party administrators and</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	9767.1(a)(35).			managed care networks.”
9767.1(a)(21) and (22)	Commenter recommends that these subsections be deleted because he opines that these definitions are no longer necessary.	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment	Reject. Both definitions are still necessary because the terms are still used in the text of the regulations.	None.
9767.1(a)(24)	<p>Commenter recommends the following revised language:</p> <p>(a)(2024) “Provider” means a physician as described in Labor Code section 3209.3 or other practitioner as described in Labor Code section 3209.5, <u>providing goods and/or services pursuant to Labor Code section 4600 and/or 4601.</u></p> <p>Commenter states that this change will clarify and tighten up the definition to include any entity providing goods or services in conjunction with the labor code sections indicated.</p>	Steven Suchil Assistant Vice President/Counsel American Insurance Association September 27, 2013 Written Comment	Reject. Unnecessary.	None.
9767.1(a)(25)	<p>Commenter recommends the following revised language:</p> <p>(a)(25)(C) If the listing described in either (A) or (B) does not provide a minimum of three physicians of each <u>specialty type</u>, then the listing shall be expanded by adjacent counties</p>	Steven Suchil Assistant Vice President/Counsel American Insurance Association September 27, 2013 Written Comment	Reject: Commenter recommends the use of the word “type” instead of “specialty” to describe how physicians are supposed to be	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>or by 5-mile increments until the minimum numbers of physicians per specialty type are met.</p> <p>Commenter opines that to specify “specialty” in place of “type” as provided in this section goes beyond DWC’s statutory authority. Labor Code Section 4616(a)(1) states: “The provider network shall include an adequate number and type of physicians, as described in Section 3209.3, or other providers, as described in Section 3209.5,”</p> <p>Commenter strongly recommends that “type” replace the word “specialty” here and throughout these regulations.</p>		<p>categorized when determining if access standards are met. Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.”</p>	
9767.1(a)(25)(C)	<p>Commenter recommends deleting this subsection.</p> <p>Commenter opines that there are so many specialties that may be have less than three physicians in a specific zip code/county that the system would have to employ smart logic to keep expanding and in many cases would not meet the criteria.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: A minimum of three physicians in each specialty are needed to fulfill access standards because of Labor Code §4616.3 requirements that specifically describes an injured worker’s right to seek a second and third opinion from physicians in the MPN.</p>	None.
9767.1(a)(25)(C)	<p>Commenter recommends the following revised language:</p> <p>If the listing described in either (A) or</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’</p>		

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>(B) does not provide a minimum of three physicians of each specialty <u>type</u>, then the listing shall be expanded by adjacent counties or by 5-mile increments until the minimum number of physicians per specialty <u>type</u> are met.</p> <p>Commenter notes that Labor Code section 4616(a)(1) states:</p> <p>“... The provider network shall include an adequate number and type of physicians, as described in Section 3209.3, or other providers, as described in Section 3209.5, to treat common injuries experienced by injured employees based on the type of occupation or industry in which the employee is engaged, and the geographic area where the employees are employed.”</p> <p>Commenter notes that <u>physician types</u> are described in Section 3209.3 as physicians and surgeons holding an M.D. or D.O. degree, psychologists, acupuncturists, optometrists, dentists, podiatrists, and chiropractors; and the other providers described in Section 3209.5 include physical therapists.</p>	<p>Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: Commenter recommends the use of the word “type” instead of “specialty” to describe how physicians are supposed to be categorized when determining if access standards are met. Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.”</p> <p>Reject: Disagree with commenter’s definition of “type” of physician. As mentioned in above response, Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.” In</p>	<p>None.</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Note that commenter provides information on the most commenter workers' compensation injuries in California, authority and case references which are available in the full text of her comments.</p> <p>Commenter opines that the Administrative Director has defined "physician type" to mean "specialty" even though the statute specifically defines physician type by reference to sections 3209.3.</p>		<p>addition, a minimum of three physicians in each specialty are needed to fulfill access standards because of Labor Code §4616.3 requirements that specifically describes an injured worker's right to seek a second and third opinion from physician's in the MPN.</p>	
9767.1(a)(27)	<p>Commenter recommends the following revised language:</p> <p>"Revocation" means the termination of a Medical Provider Network's approval subject to review by the DWC.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: Revocation is the permanent termination of an MPN this is distinguished from "suspension" of MPN which would be subject to DWC review.</p>	None.
9767.1(a)(27)	<p>Commenter recommends the following revised language:</p> <p>(a)(27) "Revocation" means the <del>permanent</del> termination of a Medical Provider Network's approval.</p> <p>Commenter opines that the term "permanent" should be removed from this section because no authority</p>	<p>Jeremy Merz California Chamber of Commerce</p> <p>Jason Schmelzer California Coalition on Workers' Compensation September 30, 2013 Written Comment</p>	<p>Reject: Revocation is the permanent termination of an MPN. An MPN can restart the application process but will need to re-apply as a new MPN Applicant. The MPN Approval Number can no longer use used.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>precludes an MPN from restarting the MPN application process. Eliminating this term will reduce disputes and uncertainty over whether an MPN can seek approval.</p> <p>Also, to reduce disputes over when approval was terminated, the commenter recommends that the DWC include the termination date as a matter of operation upon issuing a revocation.</p>		Accept: This is already being done.	None.
9767.1(a)(27)	<p>Commenter recommends removing the term “permanent” before revocation.</p> <p>Commenter states that the proposed definition of “Revocation” implies that any termination of a MPN approval is permanent and may not be re-evaluated is contradictory to section 9767.14(c). Commenter opines that the term “permanent” may also have an unintended consequence such as inducing disputes over whether the terminated MPN approval is not afforded a re-evaluation and perpetually barred from filing a new application.</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	Reject: Revocation is the permanent termination of an MPN. An MPN can restart the application process but will need to re-apply as a new MPN Applicant. The MPN that has been terminated can no longer use the Approval Number it was assigned.	None.
9767.1(a)(27) and (a)(31)	Commenter recommends the deletion of the term “permanent” from both of	Brenda Ramirez Claims & Medical	Reject: An MPN can restart the application process but will	None.

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>these subsections.</p> <p>Commenter opines that there is no statutory prohibition barring a Medical Provider Network from submitting a new application after its approval was revoked or has ceased to do business. Commenter opines that the term “permanent” here is not necessary and may fuel unintended controversy and litigation over whether an MPN is permanently barred from submitting a new application after its approval has been revoked or whether an MPN that ceased to do business is permanently barred from submitting a new application.</p> <p>Commenter recommends that the Division include on its listing the date an MPN’s approval was revoked and the termination date of an MPN that has ceased to do business.</p>	<p>Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>need to re-apply as a new MPN Applicant. The MPN that has been terminated can no longer use the Approval Number it was assigned.</p> <p>Accept: This is already being done.</p>	<p>None.</p>
<p>9767.1(a)(27), (31) and (34)</p>	<p>Commenter recommends deleting the term “permanent” from these subsections. Commenter opines that this term is unnecessary and may have an unintended consequence in that it may fuel controversy and litigation over whether a terminated MPN is permanently barred from submitting a</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: An MPN can restart the application process but will need to re-apply as a new MPN Applicant. The MPN that has been terminated can no longer use the Approval Number it was assigned.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.1(a)(31)	<p>new application.</p> <p>Commenter recommends the following revised language:</p> <p>(a)(31) “Termination” means the <b>permanent</b> discontinued use of an implemented MPN that ceases to do business.</p> <p>Commenter opines that the term “permanent” should be removed from this section as it is unnecessary and could create confusion over the ability to re-file for approval of a Medical Provider Network. MPNs that cease to do business are not permanently precluded from restarting the application process. Eliminating this term will reduce disputes and uncertainty over whether an MPN can seek approval.</p> <p>Also, to reduce disputes over when approval was terminated, commenter recommends that the DWC include the termination date as a matter of operation upon issuing a termination.</p>	<p>Jeremy Merz California Chamber of Commerce</p> <p>Jason Schmelzer California Coalition on Workers’ Compensation September 30, 2013 Written Comment</p>	<p>Reject: An MPN can restart the application process but will need to re-apply as a new MPN Applicant. The MPN that has been terminated can no longer used the Approval Number it was assigned.</p> <p>Accept: This is already being done.</p>	<p>None.</p> <p>None.</p>
9767.1(a)(31)	<p>Commenter recommends removing the term “permanent” before “discontinued”.</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez</p>	<p>Reject: An MPN can restart the application process but will need to re-apply as a new MPN Applicant. The MPN</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter opines that the proposed definition of “Termination” implies that any termination of an MPN that ceases to do business is permanent and may not have further recourse to submit a new application at a later time, should an MPN resume business.</p>	<p>Medical Networks Manager  Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>that has been terminated can no longer use the Approval Number it was assigned.</p>	
9767.1(a)(33)	<p>Commenter recommends the following revised language:</p> <p>(a)(33) “<del>Treating</del> <u>Secondary</u> physician” means any physician within the MPN applicant's medical provider network other than the primary treating physician who examines or provides treatment to the employee, but is not primarily responsible for continuing management of the care of the employee.</p> <p>Commenter recommends this change for clarity because the term “Treating physician” is used in these regulations when describing the primary treating physician as well as other physicians.</p>	<p>Steven Suchil Assistant Vice President/Counsel American Insurance Association September 27, 2013 Written Comment</p>	<p>Reject: The commenter’s recommendation to delete “treating” and replace it with “secondary” is confusing and will not be adopted.</p>	None.
9767.1(a)(33)	<p>Commenter recommends deleting the</p>	<p>Jose Ruiz, Director</p>		

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>definition of “treating physician.”</p> <p>Commenter states that the term “Treating physician” is infrequently used in the regulations to refer, either to a primary treating physician, or any physician who is providing medical treatment or evaluation but is not the primary treating physician. Commenter recommends deletion of the proposed definition of “Treating physician” to avoid confusion and possible dispute.</p> <p>Commenter requests that if the Division opts to keep the definition, that the term “Secondary treating physician” be used instead.</p>	<p>Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>Reject: The commenter’s recommendation to use “secondary treating physician” will not be adopted because it is unnecessarily narrow in scope.</p>	<p>None.</p>
9767.1(a)(33)	<p>Commenter suggests deleting this definition to avoid confusion and dispute because the term “treating physician” is used sometimes in these regulations to refer to the primary treating physician, sometimes to any physician who is providing treatment, and at other times to a physician who is treating but is not the primary-treating physician. Alternatively, where there is a need to identify a physician who is providing treatment but is not the primary treating</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>		

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	physician, commenter suggests using the term “secondary physician” as it is defined in Section 9785(a)(2).			
9767.1(a)(34)	<p>Commenter recommends removing the term “permanent” before “discontinuance”.</p> <p>Commenter opines that the proposed definition of “Withdrawal” implies that discontinuance of an approved MPN that was never implemented is permanent and may not submit a new application at a later time. Commenter states that the term “permanent” may also have an unintended consequence; possible disputes over whether a discontinued MPN is forever barred from submitting a new application.</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>Reject: Withdrawal is the permanent termination of an MPN that has never been implemented. An MPN can restart the application process but will need to re-apply as a new MPN Applicant. The MPN that has been withdrawn can no longer use the Approval Number it was assigned.</p>	None.
9767.1(a)(34)	<p>Commenter recommends the deletion of the term “permanent” from this subsection.</p> <p>Commenter opines that the term “permanent” is not necessary when a discontinued MPN was never implemented. Commenter states that an MPN that was never implemented and was discontinued is not precluded from submitting a new application at a later date. Commenter opines that the term “permanent” may fuel</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: Withdrawal is the permanent termination of an MPN that has never been implemented. An MPN can restart the application process but will need to re-apply as a new MPN Applicant. The MPN that has been withdrawn can no longer use the Approval Number it was assigned.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>unintended and unnecessary litigation over whether a discontinued MPN is permanently barred from submitting a new application.</p> <p>Commenter recommends that the Division include on its listing the withdrawal date of an MPN that was never implemented.</p>		Accept: This is already being done.	None.
9767.1(a)(36)	<p>Commenter recommends adding the following new subsection:</p> <p><u>(a)(36) “Claims administrator” means an employer as described in subdivision (6), an insurer as defined in subdivision (13) or a third party administrator (TPA) acting on behalf of an insurer or employer.</u></p> <p>Commenter opines that this definition is necessary to efficiently and completely describe the type of entities that administer claims, and that may serve as an MPN applicant, in addition to an entity that provides physician network services.</p> <p>Please see he comment on 9767.1(a)(19).</p> <p>If accepted, commenter states that the</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: A Claims Administer can file an MPN Application as an entity that provides physician network services. Therefore, this change is unnecessary and is substantively incorrect.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>definitions in this section will need to be re-ordered alphabetically.</p>			
9767.1(a)(37)	<p>Commenter recommends adding the following new subsection:</p> <p><u>(a)(37) “Primary care physician” means a physician who has limited his or her practice of medicine to general practice or who is a board-certified or board-eligible internist, pediatrician, obstetrician-gynecologist or family practitioner.”</u></p> <p>Commenter states that this definition is adapted from the definition in the Insurance Commissioner’s regulation Title 10, CCR, section 2240(k). Title 10, CCR, section 2240.1(c) addresses time/distance provider network access standards that the Insurance Commissioner requires for disability policies and agreements. Commenter states that Section 2240(k), is necessary to implement commenter’s recommendation to apply those time and distance access network standard for primary care physicians in section 9767.5(b).</p> <p>If accepted, commenter states that the definitions in this section will need to</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: The term “Primary care physician” is not a term normally used in workers’ compensation and the addition of this definition is confusing because the term “Primary Treating Physician” is used and is already defined.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.1(a)(7)	<p>be re-ordered alphabetically.</p> <p>Commenter recommends the following revised language:</p> <p>“Entity that provides network services” means a legal entity employing or contracting with physicians, facilities (hospitals, ambulatory surgery centers, skilled nursing facilities, transitional living residences, etc., ) and other providers of healthcare services to deliver treatment to injured workers on behalf of one or more insurers or self-insured employers, the Uninsured Employers Benefits Trust Fund, the California Insurance Guaranty Association, or the Self-Insurers Security Fund, and that meets the requirements of this article, Labor Code 4616 et seq., and corresponding regulations and is not responsible for any other applicant responsibilities.</p> <p>Commenter states that networks do not have any claims administrator functions or responsibilities and should not be held accountable for those such employee notices, IMR notices, etc.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject in part; Accept in part: The extensive list of examples is unnecessary. DWC agrees that there will be some entities that provide physician network services that do not have any claims administrator functions or responsibilities. Revisions will be made in the Employee Notification sections of 9767.12 and the Administrative Penalty Schedule; Hearing sections of 9767.19.</p>	<p>§ 9767.12(a) is revised to delete “or entity that provides physician network services” and replaced with the employer “or the insurer for the employer” because some entities that provide physician network services do not have any claims functions or responsibilities. Similar revisions were made to 9767.12(b) and (b)(1). In the Administrative Penalty Schedule; Hearing sections of 9767.19. Section (a)(2) was deleted and replaced with a new section (b) that specifically states</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
				“the penalties that may be assessed against the employer or insurer responsible for these notices violations.”
9767.1(a)(7)	<p>Commenter recommends the following revised language:</p> <p>(a)(7) “Entity that provides physician network services” means <b>an legal</b> entity employing or <b>contracting with providing</b> physicians and other medical providers to deliver medical treatment to injured workers on behalf of one or more insurers, self-insured employers, the Uninsured Employers Benefits Trust Fund, the California Insurance Guaranty Association, <b><u>claims administrator</u></b> or the Self-Insurers Security Fund, and that meets the requirements of this article, Labor Code 4616 <i>et seq.</i>, and corresponding regulations. <b><u>Nothing in this section prevents an entity providing physician network services from contracting with the third party administrator or medical provider network administrator of an employer or insurer.</u></b></p>	<p>Jeremy Merz California Chamber of Commerce</p> <p>Jason Schmelzer California Coalition on Workers’ Compensation September 30, 2013 Written Comment</p>	<p>Reject in part. Accept in part. DWC rejects the suggested language since the words “legal” and “contracting with” are important for MPN Applications verification purposes. DWC agrees with the need for additional clarification to make it clear that an entity providing physician network services can be a third-party administrator and a managed care network.</p>	<p>§ 9767.1(a)(7) is revised to add “including but not limited to third party administrators and managed care networks”</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter opines that the proposed definition is too restrictive because it fails to include third party administrators (TPAs). Through the administration of claims on behalf of employers and some insurers, TPAs deliver medical treatment to injured workers. Commenter states that the language should be amended to ensure TPAs are not precluded from contracting with the defined entity providing physician network services.</p> <p>Commenter recommends that the term “contracting” be replaced with the term “providing,” which is used in Labor Code section 4616(b)(3)(1). Harmonizing this language will reduce disputes and confusion over which types of entities fit within the definition.</p> <p>Commenter opines that the term “legal” is unclear and should be struck or, at a minimum, defined.</p>			
9767.1(a)(7)	<p>Commenter recommends the following revised language:</p> <p>“Entity that provides physician network services” means an <u>l</u> legal</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation</p>	<p>Reject in part. Accept in part: The word “legal” is important</p>	<p>§9767.1(a)(7) is revised to add</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>entity employing or contracting with physicians and other medical providers to deliver medical treatment to injured workers on behalf of one or more <del>insurers self-insured employers, the Uninsured Employers Benefits Trust Fund, the California Insurance Guaranty Association, or the Self-Insurers Security Fund</del> <u>claims administrators</u>, and that meets the requirements of this article, Labor Code 4616 <i>et seq.</i>, and corresponding regulations.</p> <p>Commenter states that an entity that employs or contracts with physicians and other medical providers makes the network available to claims administrators to deliver medical treatment to injured employees. Commenter states that the proposed language fails to take third party administrators (TPAs) into account. TPAs deliver medical treatment to injured workers on behalf of many self-insured employers and some insurers. Please note her comment for 9767.1(a)(35).</p> <p>Commenter opines that the word “legal” is not necessary and because</p>	<p>Institute (CWCI) September 30, 2013 Written Comments</p>	<p>for MPN Application verification purposes. DWC agrees with the need for additional clarification to make it clear that an entity providing physician network services can be a third-party administrator.</p>	<p>“including but not limited to third party administrators and managed care networks”</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	its intended meaning is not clear it will cause confusion and disputes. Commenter requests that if the word remains, its intended meaning be clarified.			
9767.1(a)(7) and (19)	<p>Commenter recommends the following revised language:</p> <p>“(7) Entity that provides physician network services” means a legal entity employing or contracting with physicians and other medical providers to deliver medical treatment to injured workers on behalf of one or more insurers, self-insured employers, the Uninsured Employers Benefits Trust Fund, the California Insurance Guaranty Association, or the Self-Insurers Security Fund <u>claims administrators, or third party administrators</u>, and that meets the requirements of this article, Labor Code 4616 <i>et seq.</i>, and corresponding regulations.”</p> <p>“(19) ‘MPN Applicant’ means an insurer, or employer, <u>or third party administrator</u> as defined in subdivisions (6) and (13) of this section, or an entity that provides physician network services as defined</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>Reject in part. Accept in part: The word “legal” is important for MPN Application verification purposes. DWC agrees with the need for additional clarification to make it clear that an entity providing physician network services can be a third-party administrator.</p>	<p>§9767.1(a)(7) is revised to add “including but not limited to third party administrators and managed care networks”</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>in subdivision (7).”</p> <p>Commenter opines that the proposed language fails to include third party administrators (TPA) into consideration. Commenter states that TPAs handle the claims processing, provider networks, and utilization review for self-insured employers.</p>			
9767.1(a)(7), 9767.3, 9767.8	<p>Commenter seeks confirmation that Anthem Workers’ Compensation, other networks, entities such as TPA’s and Managed Care Services Companies can apply as a Network Services Entity and transfer existing claims into the New Log number, to achieve the result of reducing the log numbers, and reduce the potential penalty multiplier effect when an entity has several MPNS using one network. If confirmed, commenter further proposes:</p> <p>a. Categorizing Network Service Entities into two types: one type with claims administration services responsibilities such as a TPA, and one without claims administration services responsibilities, such as</p>	<p>Robert Mortensen, President Anthem Workers’ Compensation</p> <p>Angie O’Connell Director of Account Management &amp; MPN Services Anthem Workers’ Compensation September 30, 2013 Written Comment</p>	<p>Accept in part. Reject in part. DWC agrees with the need for additional clarification to make it clear that an entity providing physician network services can be a third-party administrator. DWC disagrees with the suggestion that an entity that provides physician network services be categorized into two types because this is unnecessary. However, revisions will be made in the Employee Notification sections of 9767.12 and the Administrative Penalty Schedule; Hearing sections of 9767.19. DWC disagrees with the suggestion to require entities that provide physician network services to identify the participating carriers or self</p>	<p>§ 9767.12(a) is revised to delete “or entity that provides physician network services” and replaced with the employer “or the insurer for the employer” because some entities that provide physician network services do not have any claims functions or responsibilities. Similar revisions were made to 9767.12(b) and (b)(1). In the Administrative Penalty Schedule; Hearing sections of</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Anthem or other network companies.</p> <p>b. Ascribing penalty liability for Network Service Entities without claims administration responsibilities to the carrier, insurer, employer, or claims administrator related to administration of the claim (i.e., employee notice of rights at time of injury, IMR notice within required timeframes, etc.). This will allow network companies without these service functions to readily file as a MPN Applicant</p> <p>c. Require the Network Service Entity filing to identify the participating Carriers or Self Insured Employers and the number of Covered Employees. This would prevent the revocation of an entire MPN where there is a specific violation by a single participant who is accessing an MPN. This proposed model is very similar to how the HCO is constructed.</p>		<p>-insured employers and the number of covered employees as unnecessary. As mentioned, revisions will be made in the Administrative Penalty Schedule; Hearing sections of 9767.19.</p>	<p>9767.19. Section (a)(2) was deleted and replaced with a new section (b) that specifically states “the penalties that may be assessed against the employer or insurer responsible for these notices violations:”</p>
9767.1(a)16, 9767.19(4)(A),	Commenter seeks clarification that if the injured worker is not referred to	Robert Mortensen, President	Reject in part. Accept in part. For purposes of these MPN	Sections 9767.19(a)(2)(E) and

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.19(4)(b), 9767.19(4)(c), 9767.18(2)(B)(v)	the Medical Access Assistant because they were assisted by another party (e.g. adjuster/nurse case manager vs. Medical Access Assistant) there is no requirement to produce the call logs and the contents of the calls. Commenter also requests clarification that the penalty liability only applies to appointment requests handled by the Medical Access Assistants received via their toll free number, email address or fax.	Anthem Workers' Compensation  Angie O'Connell Director of Account Management & MPN Services Anthem Workers' Compensation September 30, 2013 Written Comment	regulations, DWC does not have the authority to compel the production of call logs from any party other than the MPN Medical Access Assistant and, therefore, this suggestion is unnecessary. DWC agrees that the penalty liability only applies to appointment requests handled by the MPN Medical Access Assistants.	(F) are revised so that a penalty can only be assessed for an MPN Medical Access Assistant's failure in handling appointment requests.
9767.11(a)	Commenter suggests removing the term "applicant" after "MPN" in this subsection.  Commenter opines that since the MPN now has its own approval number it is the MPN's Economic Profiling Policy and not the Applicant's. The MPN Applicant is access an MPN.	Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment	Reject: The term "MPN applicant's" filing is used to make clear it is the insurer, employer or entity that provides physician network services responsible for filing its economic profiling policies.	None.
9767.12(2)(C)	Commenter states that this section requires that a complete provider listing be made available to anyone and includes the requirement that the complete provider listing be available on the MPN's website. Commenter opines that this will create a competitive disadvantage for tightly managed networks. Commenter recommends removing the language	Greg Moore President, Harbor Health Systems One Call Care Management September 30, 2013 Written Comment Oral Comment	Reject: The complete provider directory includes ancillary service providers and posting this information in the MPNs website is an efficient way for an injured worker to view the listing.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>requiring the complete provider listing to be made available on the MPN’s website. Commenter opines that the original language in this section, combined with the new Medical Access Assistant, meets the goal of enhancing access to care.</p>			
<p>9767.12(a)(2)(C), 9767.19(a)(3)(A)</p>	<p>Commenter seeks clarification that if an MPN is able to update a provider finder website more frequently than every quarter that that standard for quarterly updates meets or exceeds the regulations. Commenter would also like to confirm that the quarterly update/refresh means it includes correction of errors completed within the 30 days requirement if reported via the methods on the website, and adds, changes, terminations reported by participating providers or groups. Commenter would like confirmation that the 30 days to display corrected data on the provider finder applies only to the errors reported through the methods on the website and applies to all reported errors, not just deceased providers or opt out providers.</p> <p>Commenter notes that section 9767.12(a)(2)(C) requires each MPN applicant to confirm quarterly that</p>	<p>Robert Mortensen, President Anthem Workers’ Compensation</p> <p>Angie O’Connel Director of Account Management &amp; MPN Services Anthem Workers’ Compensation September 30, 2013 Written Comment</p>	<p>Reject: The quarterly updates are mandated by Labor Code section 4616(a)(4) and are covered under the regulations in section 9767.12(a)(2)(C) and it is clear that the updates must be made to the MPN provider lists on a quarterly basis. In addition to these quarterly updates, the MPN must correct within 30 days any reported inaccuracies to the MPN provider listings. These are two different requirements and it is unnecessary to express if an MPN updates more frequently than on a quarterly bases that they meet or exceed the regulations. The required quarterly updates to the MPN provider listings may include any corrections made as a result of any reported</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>each provider is accurately listed within an MPN. Commenter opines that MPNs have several thousand providers and that requiring a confirmation from each provider every three months will inundate providers with confirmation requests from several hundred MPNs and have the unintended effect of providers deciding not to affirm their participation due to the undue administrative burden. Further, the providers are not always timely in data confirmation yet the MPN is subject the penalty if the provider does not comply. Commenter states that the standard of "accurate" implies a 100% accuracy standard. This means that having just a few inaccuracies in very large and dynamic data base amounting to an error rate of even a hundredth of percent would result in quarterly penalties of \$10,000 per MPN. Forty errors in a source network serving over 200 MPNs would result in a penalty liability of \$2M per quarter. Commenter recommends that the penalty be based on the failure to update the MPN directory with corrections of reported errors or adds, changes and terminations as</p>		<p>inaccuracies. An MPN will have 45 days to correct reported inaccuracies instead of 30 (see changes to §9767.12(a)(2)(C)) and these errors applies to all reported errors, not just deceased providers or opt out providers.</p> <p>Accept: §9767.12(a)(2)(C) will be revised to delete the phrase “confirming the accuracy of” an MPN provider listing because it is impractical to require the confirmations from all the MPN physicians on a quarterly basis.</p>	<p>Section 9767.12(a)(2)(C) is revised to delete the phrase “and for confirming the accuracy of” and the requirement to remove providers from the MPN listing after a confirmed reported inaccuracy will be changed from “30” days to “45” days.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	referenced above quarterly, not 100% accuracy of the data every quarter.			
9767.12(a)	<p>Commenter questions this amendment that requires the notification to be sent in Spanish only when the employee "primarily" speaks Spanish. Commenter finds this absurd and question how the MPN is going to determine if any particular employee "primarily" speaks Spanish? What if an individual "primarily" speaks English at work but Spanish outside of work? Labor Code section 124(b) requires that any notice required to be given to employees by the Division be in both English and Spanish. Commenter does not see any reason why notices required to be given by MPNs should not comply with that same requirement.</p>	<p>California Applicants' Attorneys Association September 29, 2013 Written Comment</p>	<p>Disagree: The complete employee notification will be provided by the employer or the insurer of the employer and these entities should be able to determine if an injured worker primarily speaks Spanish.</p>	<p>None</p>
9767.12(a)	<p>Commenter recommends the following revised language:</p> <p><b><u>a) At the time the injury is reported or when an employee with an existing injury is required to transfer treatment to an MPN, a complete written MPN employee notification with the information specified in <del>subdivision (f) paragraph (2) of this section about</del></u></b></p>	<p>Mark Sektan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Accept: The proposed regulatory language has been revised to clarify that notice is required at the time when the injury is reported or an employer has knowledge of an injury. This will be added to the existing requirement when an employee with an existing injury is required to transfer treatment to an MPN.</p>	<p>The regulation will be revised to include "When an injury is reported or an employer has knowledge of an injury".</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><b><u>coverage under the MPN subdivision, shall be provided to the covered employees by the employer, insurer or entity that provides physician network services.</u></b></p> <p>Commenter states that the obligation to provide the employee notice should be when the injury was reported and not sustained. Commenter opines that the MPN can't control when an employee notifies the MPN or their employer that an injury occurred.</p>			
9767.12(a)	<p>Commenter recommends the following revised language:</p> <p>(a) At the time <del>of the injury is reported</del> or when an employee with an existing injury is required to transfer treatment to an MPN, a complete written MPN employee notification with the information specified in paragraph (2) of this subdivision shall be provided to the <u>injured</u> covered employee by the employer, insurer, <u>claims administrator</u> or an entity that provides physician network services. This MPN notification shall be provided in English and also in Spanish if the employee <u>primarily</u> speaks Spanish and <u>does not proficiently speak or</u></p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Agree in part. Reject in part: The proposed regulatory language has been revised to clarify that notice is required at the time when the injury is reported.</p> <p>Reject: Adding the word "injured" before covered is unnecessary because it is redundant the first sentence of the section, which states when notice shall be given, makes it clear that notice is to be given to injured employees.</p>	<p>The regulation will be revised to include "When an injury is reported".</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><u>understand the English language.</u></p> <p>Commenter states that the injury is not always reported when it occurs.</p> <p>Commenter states that clarification that the notification is for an <u>injured</u> covered employee is suggested.</p> <p>Commenter states that the claims administrator may also provide the notification.</p> <p>Commenter opines that the notice in Spanish is only necessary if the employee does not proficiently speak or understand the English language.</p>		<p>Reject: The Labor Code specifically mentions MPN Applicants can be an employer, insurer or entity that provides physician network services not claims administrators.</p> <p>Reject: The notice is required when the employee primarily speaks Spanish. Making a determination as to whether or not the injured worker proficiently speaks or understands the English language is onerous and would ultimately be difficult to determine without having an element of arbitrariness.</p>	<p>None.</p> <p>None.</p>
9767.12(a)	Commenter notes that this subsection requires that the "notice in the section	Stephen J. Cattolica Director of	Reject: Requiring the MPNs to provide notices in all the	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	shall be provided in English and also in Spanish ...." Commenter suggests that in addition to all other requirements, this paragraph include a requirement that the MPN notify injured employees how they can obtain information about these notices in their native language.	Government Relations ADVOCAL September 30, 2013 Written and Oral Comments	languages that are native to the diverse workforce in California would be unduly burdensome and onerous and would go beyond what is required by the Labor Code.	
9767.12(a)(2)(A)	Commenter requests a description of how all requests by an injured worker for assistance in scheduling an appointment with an MPN provider will be directed solely to the Medical Access Assistant Toll free number to ensure compliance with scheduling and call back required timeframes for compliance tracking and random audit compliance.	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment	Reject in part. Accept in part. Requests by an injured worker for assistance in scheduling an appointment with an MPN provider may be directed to a claims administrator and not the MPN medical access assistant. However, the proposed regulatory language has been revised to clarify only violations by an MPN medical access assistant can be enforced against the MPN.	Sections 9767.19(a)(2)(E) and (F) are revised so that a penalty can only be assessed for an MPN Medical Access Assistant's failure in handling appointment requests.
9767.12(a)(2)(A)	The commenter has recommended that the Division develop rules defining the types of assistance required to be provided by the new MPN medical access assistants [see section 9767.5(h)]. This subparagraph requires that the MPN provide a description of the access assistance that will be provided. In order to assure that all workers receive	California Applicants' Attorneys Association September 29, 2013 Written Comment  Diane Worley Policy Implementation	Accept in part: The proposed regulatory language will be revised to reflect that the notices must describe the assistance to be provided by the Medical Access Assistants including finding available physicians and scheduling and confirming physician appointments.	Section 9767.12(a)(2)(A) will be revised to include "including finding available physicians and scheduling and confirming physician appointments".

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	accurate and useful information, the commenter recommends that the Division develop standard language that must be included in the notice regarding the role of the Medical Access Assistants.	Director California Applicants' Attorneys Association September 30, 2013 Oral Comment		
9767.12(a)(2)(C)	<p>Commenter recommends the following revised language:</p> <p>How to review, receive or access the MPN provider directory. An employer insurer or entity that provides physician network services 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 and on the MPN's website. The MPN's website address shall be clearly listed. If an employee requests an electronic listing, it shall be provided electronically on a CD or on a website. The URL address for the provider directory shall be listed with any additional information needed to access the directory online (fails to include sentence). All provider listings shall be regularly updated, at minimum, on a quarterly basis with</p>	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment	Reject: The proposed regulatory language ensures that the MPN is designated as the party responsible for updating the MPN provider listings at minimum on a quarterly basis. This should be sufficient to protect the interests of the injured workers while not imposing an undue burden on MPNs. The business decision regarding how the quarterly updates will be accomplished is properly within the purview of the MPNs.	None.

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>the date of the last update provided on the listing given to the employee. The MPN shall contact participating providers on a quarterly basis to ensure the listing information for the provider and/or medical group is accurate, or if has a written policy that demonstrates that the MPN performs ongoing annual verification of participating providers, weekly refreshes of reported changes, and has the ability to perform real time provider directory updates in the online provider directory. 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 30 days of notice to the MPN Contact.</p>			
9767.12(a)(2)(C)	<p>Commenter recommends that the following sentence be added to this subsection:</p> <p>If a listed provider has been terminated or not renewed, except where the termination or non-renewal</p>	<p>California Applicants' Attorneys Association September 29, 2013 Written Comment</p>	<p>Reject: Inclusion of the recommended language would violate Labor Code 4616(d)</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>is for reasons relating to a medical disciplinary cause or reason as defined in paragraph (6) of subdivision (a) of Section 805 of the Business and Profession Code, or fraud or other criminal activity, until the listed provider's name is removed from the provider directory on the MPN website the provider is conclusively presumed to be an authorized MPN provider.</p> <p>Commenter recommends that the notice include a QR code that would link directly to the provider list. The notice should also advise of the right to request a printed copy of the MPN provider list should the injured worker not have access to a computer and that this list will be provided within one business day upon receipt of the request. This subparagraph also includes a proposed amendment that would require the MPN to "confirm the accuracy of an MPN's provider listings". Commenter support efforts to improve the accuracy of the provider listings, but does not believe this vague language will provide any additional protection to injured workers, because "confirming" the</p>		<p>which states that “an employer or insurer shall have the exclusive right to determine the members of their network.”</p> <p>Reject: QR Code - Mandating a Quick Response Code is unnecessarily burdensome on MPNs.</p> <p>Reject: Printed Copy - The proposed regulation already requires the provider director listing be available in writing. The requirement that the list be provided within one business day is onerous.</p> <p>Accept: Confirming accuracy - The proposed regulatory language will be revised to eliminate the obligation to confirm the accuracy of an MPN’s provider listings.</p>	<p>None.</p> <p>None.</p> <p>Section 9767.12(a)(2)(C) will be revised to delete the phrase “and for confirming the accuracy of” an MPN’s provider listings.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>accuracy of the list does not actually require any specific action by the MPN. Commenter notes that one of the frequent problems encountered with the provider lists is that after a physician is selected from the list, the MPN will assert that this physician is no longer in the MPN.</p>			
9767.12(a)(2)(C)	<p>Commenter recommends the following revised language:</p> <p><b><u>The MPN is applicants are responsible for updating and for confirming the accuracy of an MPN’s provider listings, 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. 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 30 days of notice to the MPN. through the contact method stated on the provider listing to report</u></b></p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>		

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><b><u>inaccuracies network administrator.</u></b></p> <p>Commenter suggests having the MPN responsible for updating provider listings. Commenter states that many times an MPN Applicant has involvement in the administration or maintenance of the MPN. Commenter also suggests keeping the 60 day timeframe for updating the provider list, which will allow time for IT system edits and removal of the last requirement. Commenter states that inclusion of this statement doesn't account for other methods of identification, e.g. Provider demographic audits etc. Commenter opines that the provider should be removed regardless of how the error was reported.</p>		<p>Reject: The MPN Applicant is legally responsible for compliance with the code and regulations.</p> <p>Reject: Recognizing that a 30-day timeframe may be short in light of various concerns raised, the time frame will be increased to allow additional time to validate the information and complete the update.</p> <p>Reject: This provision gives specific instructions to notify the MPN directly if there are inaccuracies in their provider listings. It does not preclude other methods of finding inaccuracies i.e. DWC's random audits.</p>	<p>None.</p> <p>Section 9767.12(a)(2)(C) will be revised so that the time frame to remove reported inaccuracies will be changed from 30 days to 45 days.</p> <p>None.</p>
9767.12(a)(2)(C)	<p>Commenter recommends the following revised language:</p> <p>If a listed provider becomes deceased or is no longer treating workers' compensation patients at the listed</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p>	<p>Reject: Recognizing that a 30-day timeframe may be short in light of various concerns</p>	<p>Section 9767.12(a)(2)(C) will be revised so that the</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>address, the provider shall be taken off the provider list within <del>60</del> <u>90</u> days of notice to the MPN through the contact method stated on the provider listing to report inaccuracies.</p> <p>Commenter notes that the subsection proposes a reduced timeframe from 60 to 30 days to report a listed provider who becomes deceased or is no longer treating workers' compensation patients at the listed address and must be removed from the provider list. Commenter opines that a minimum of 90-day period to remove a provider from the list would be more reasonable, and in line with the existing requirement to update the list on a quarterly basis.</p> <p>Commenter requests clarification and direction on how to comply with "confirming the accuracy of an MPN provider listing".</p>	<p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>raised, the time frame will be increased to allow additional time to validate the information and complete the update.</p> <p>Accept: The proposed regulatory language will be revised to eliminate the obligation to confirm the accuracy of an MPN's provider listings</p>	<p>time frame to remove reported inaccuracies will be changed from 30 days to 45 days.</p> <p>Section 9767.12(a)(2)(C) will be revised to delete "and for confirming the accuracy of".</p>
9767.12(a)(2)(C)	<p>Commenter recommends the following revised language:</p> <p>How to review, receive or access the MPN provider directory. An</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation</p>	<p>Reject: The Labor Code specifically states an employer,</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>employer, insurer, <u>claims administrator</u> or entity that provides physician network services 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 and on the MPN's website. The MPN's website address shall be clearly listed. If an employee requests an electronic listing, it shall be provided electronically on a CD or on a website, <u>or by mutual agreement, by email</u>. The URL address for the provider directory shall be listed with any additional information needed to access the directory online including any necessary instructions and passcodes. MPN applicants are responsible for updating <del>and for confirming the accuracy of</del> an MPN's provider listings, at minimum, on a quarterly basis with the date of the last update provided on the listing given to the employee. <del>The</del> <u>Unless the participating provider is contractually obligated to provide notification of any change in the listing information, the MPN shall contact participating providers on a quarterly basis annually</u></p>	<p>Institute (CWCI) September 30, 2013 Written Comments</p>	<p>insurer or entity that provides physician network services are the entities that can submit MPN applications. Claims administrators are not one of the entities listed.</p> <p>Agree in part: The proposed regulatory language will be revised to include the e-mail option without the necessity of mutual agreement.</p> <p>Agree: The proposed regulatory language will be revised to eliminate the obligation to confirm the accuracy of an MPN's provider listings as it is overly burdensome.</p>	<p>Revised to include "via email".</p> <p>§9767.12(a)(2)(C) will be revised to delete "and for confirming the accuracy of".</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>to ensure the listing information for the provider and/or medical group is accurate. 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 <del>30</del> <u>90</u> days of notice to the MPN Contact.</p> <p>Commenter opines that if the employee requests an electronic listing, providing it by email should be an option if mutually agreed upon.</p> <p>Commenter states that if a participating provider is contractually obligated to provide notification of any change in the listing, it is not necessary to also contact him or her to ensure the listing information for the provider and/or medical group is accurate. It is not possible to contact all participating providers quarterly, particularly for large networks. It will be difficult and costly to do so even annually. Commenter opines that participating providers will also be</p>		<p>Reject: The need to maintain an accurate, updated provider list is essential to ensure access to medical treatment and to protect the interests of the injured workers and employers. Annual updates are insufficient to ensure that the lists will be current and of value to the injured workers. The current proposed regulatory language does not require that the MPN contact</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>negatively affected because they will be subject to hundreds of telephone calls quarterly. Commenter states that this is impractical and unnecessary. Other medical networks, including group health networks and disability networks, are not burdened with such unreasonable requirements. Commenter opines that it is not necessary to single out MPN networks with this burden, nor is it necessary to burden employers with the additional expense it will cause.</p> <p>Commenter states that it is not as easy and quick to remove a provider as one might at first expect. For example, just because the MPN Contact receives a telephone call claiming that a listed provider is deceased or is no longer treating workers' compensation patients at the listed address does not mean the name can be immediately removed from the listing. First the telephone claim must be verified and facts documented. Contract issues and procedures may be triggered and then must be addressed. Commenter states that every unscheduled update is very costly and requires significant resources and time to achieve. A</p>		<p>participating providers by phone or otherwise to ensure the listing information is accurate. The business decision as to how to most effectively and economically accomplish the quarterly update of the provider listing is best left to the MPNs.</p> <p>Reject: Recognizing that a 30-day timeframe may be short in light of various concerns raised, the time frame will be increased to allow additional time to validate the information and complete the update.</p>	<p>§9767.12(a)(2)(C) will be revised so that the time frame to remove reported inaccuracies will be changed from 30 days to 45 days.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>minimum of 45 days is generally necessary, barring complications. Commenter opines that it is unreasonable to require provider listings to be current within 30 days, and 60 days is often insufficient. 90 days is more reasonable.</p>			
9767.12(a)(2)(C)	<p>Commenter makes reference to the requirement that a provider be removed from an MPN 30 days after notice has been received through the means identified in the provider listing.</p> <p>Comment opines that this requirement undermines the provider acknowledgement. Commenter states that the provider requires time to validate that the information reported is accurate and opines that there are many misinterpretations that can happen. Commenter opines that the Division is undermining their requirement of a provider acknowledgement and the contract that exists with the MPN provider.</p> <p>Commenter requests that the 30-day notice start after the provider or their authorized representative has authorized that information.</p>	Stephanie Leras Coventry Health Care Oral Comment	<p>Reject: The proposed requirement to remove from the provider list the names of providers who are either deceased or no longer treating patients does not undermine the purpose of the provider acknowledgement. These requirements serve different purposes and injured workers are not privy to the provider acknowledgements. The requirement to update the list ensures that the injured workers have timely access to high-quality care by possessing current and accurate information about the treatment providers available to them. Additionally this could serve to increase the patient loads for those providers who are willing to</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			<p>treat injured workers.</p> <p>Reject: The 30-day time frame will be increased to allow additional time to validate the information and update the listing; however the time will begin running as of the time of the notice. To do otherwise would render the point of having a deadline to update the listing moot as there would be no way to control how long it would ultimately take the parties to confirm the information and make the necessary updates.</p>	<p>§9767.12(a)(2)(C) will be revised so that the time frame to remove reported inaccuracies will be changed from 30 days to 45 days.</p>
9767.12(a)(2)(C)	<p>Commenter requests that the subsection be amended to state that the “...provider shall be taken off the provider list within 30 days of <u>validated notice to the MPN by the provider and/or his estate based on the contract method stated on the provider listing to report inaccuracies...</u>”</p> <p>Commenter opines that rules as currently proposed fail to take account for a validation process that the MPN</p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers’ Compensation Services September 30, 2013 Written Comment</p>	<p>Reject: The 30-day time frame will be increased to allow additional time to validate the information and update the listing; however the time will begin running as of the time of the notice. To do otherwise would render the point of having a deadline to update the listing moot as there would be no way to control how long it would ultimately take the</p>	<p>§9767.12(a)(2)(C) will be revised so that the time frame to remove reported inaccuracies will be changed from 30 days to 45 days.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>must undertake to ensure that a report made that a provider is deceased or is no longer taking Workers' Compensation patients is, in fact, accurate. Commenter states that due to the existing contractual relationships between an MPN and its providers, an MPN is not at liberty to remove a provider without first performing due diligence. Commenter opines that an MPN's duty to correct the provider listing should be amended to begin the 30-day "clock" for updating the provider listing once this due diligence has been completed with an official representative of the provider and/or his estate.</p>		<p>parties to confirm the information and make the necessary updates. Consideration should be given as to whether the same degree of documentation of confirmation is necessary when removing a name from a provider list during an update and having the provider removed from the MPN itself.</p>	
9767.12(a)(2)(H)	<p>Commenter recommends the following revised language:</p> <p>"What to do if a covered employee has trouble getting an appointment with a provider within the MPN and how to contact a medical access assistant for help."</p> <p>"The medical access assistant shall help an injured employee find an available physician of the employee's choice, and subsequent physicians if necessary. They shall be available to respond to injured employees, contact physicians' offices during regular</p>	<p>California Applicants' Attorneys Association September 29, 2013 Written Comment</p> <p>Diane Worley Policy Implementation Director California Applicants' Attorneys Association September 30, 2013</p>	<p>Reject: The applicable sections of the Labor Code and proposed regulations that address the role of and requirements associated with the Medical Access Assistants are not detailed in this section but rather in §9767.5.</p>	None.

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>business hours and schedule appointments. Telephone calls from the injured employee or their representative shall be returned within one business day. Medical access assistants shall assist the injured employee in selecting a medical provider of the employee's choice from the MPN network and shall contact the selected medical provider's office for an appointment on the same day as the injured employee makes the selection. An appointment for non-emergency services for an initial treatment shall be made within three business days of the initial telephone call from the injured employee. An appointment for emergency services shall be made on the same day as the telephone call from the injured employee. The medical access assistant shall provide written authorization for treatment to the selected MPN provider's office on the same day as scheduling the medical appointment. The medical access assistant shall communicate the appointment date, time, and location to the injured employee by telephone call and letter with a copy to the medical provider, and all parties on</p>	<p>Oral Comment</p>		

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>the case in one business day from making the appointment. The medical access assistant shall communicate with the insurer, self-insured employer, or third party administrator to make certain authorization is timely given for treatment and that all necessary and appropriate medical reports and records are timely sent for the initial medical appointment. The medical access assistants shall maintain a log of all contacts and requests from injured employees, identifying the time and date of the contact and providing details on what was requested and what assistance was provided."</p>			
9767.12(a)(2)(M)	<p>Commenter recommends the following revised language:</p> <p><u>A description of the standards for the transfer of care policy and a notification that a copy of the policy in English or in Spanish if the employee speaks Spanish and requests assistance in Spanish shall be provided to an employee upon request; and</u></p> <p>Commenter recommends this charge for clarity.</p>		<p>Reject: The phrase “shall be provided to an employee upon request” is already in regulatory text, therefore, the addition of “and request assistance in Spanish” is redundant.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.12(a)(2)(N)	<p>Commenter recommends the following revised language:</p> <p><u>A description of the standards for the continuity of care policy and a notification that a copy of the policy in English or in Spanish if the employee speaks Spanish and requests assistance in Spanish shall be provide to an employee upon request.</u></p> <p>Commenter recommends this charge for clarity.</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: The phrase “shall be provided to an employee upon request” is already in regulatory text, therefore, the addition of “and request assistance in Spanish” is redundant.</p>	None.
9767.12(b)	<p>Commenter opines that the opening phrase of this subdivision, "When MPN coverage will end," is awkward and should be clarified. Commenter recommends that this subdivision be expanded to provide employees with more complete information about their rights when coverage through a MPN is to be terminated. First, the rules should require that the notification of the termination of the MPN clearly explain how continuing treatment can be obtained after the termination. The explanation should clearly explain the employee's rights regarding continuation of treatment with a provider in the terminated MPN. Also, the rules must assure that the</p>	<p>California Applicants’ Attorneys Association September 29, 2013 Written Comment</p>	<p>Reject: The phrase “When MPN coverage will end” succinctly describes this period. Commenter provides no explanation why this phrase is awkward or recommendations for alternative language.</p> <p>Reject: The details suggested by this commenter are provided in the Transfer of Care and Continuity of Care Notifications also provided to covered employees pursuant to §9767.12. Section 9767.12(b) specifically addresses end of MPN coverage requirements.</p>	None.  None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>employee has sufficient time to find a different treating physician, if desired by the employee. Failure to provide sufficient time to find a new physician can have a major impact on the treatment and recovery of the employee, to the detriment of both the employee and employer. Commenter recommends that the rule require notice of termination of a MPN coverage be provided to the employee no less than 60 days prior to the termination date. As in 9767.12 (a), commenter opines that this notice should be provided in both Spanish and English. Labor Code section 124(b) requires that any notice required to be given to employees by the Division be in both English and Spanish. In the alternative, if a Spanish version is not automatically included, commenter opines that a notice in Spanish should be required stating that a Spanish version will be supplied on request.</p>		<p>At the end of MPN coverage, the notice requirements of Transfer of Care and Continuity of Care will also be triggered.</p>	
9767.12(b)	<p>Commenter recommends the following revised language:</p> <p>When MPN coverage will end, the MPN Applicant shall ensure each injured covered employee who is</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI)</p>	<p>Reject: When MPN coverage ends, an injured employee will be affected by the change</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>treating under its MPN is given written notice of the date the employee will no longer be able to use its MPN <u>unless the injured employee must continue to receive treatment under that MPN.</u> The notice required by this section shall be provided in English and also in Spanish if the employee speaks Spanish <u>and does not proficiently speak or understand the English language.</u></p> <p>Commenter states that no notice is necessary if the injured employee must continue to receive treatment under the MPN. Commenter opines that receiving a notice that does not affect him or her will serve only to confuse the employee and add to administrative expenses, and adds a potential penalty for failing to do something that was unnecessary in the first place.</p> <p>Commenter states that the notice in Spanish is only necessary if the employee does not proficiently speak or understand the English language.</p>	<p>September 30, 2013 Written Comments</p>	<p>despite that fact treatment for the injury incurred before the end of MPN coverage may be allowed to continue under that MPN. For example, subsequent new injuries will no longer be covered under that MPN and the employer may be allowed to transfer care into another MPN.</p> <p>Reject: The position to err towards caution was taken because it is important to communicate this information.</p>	<p>None.</p>
9767.12(b)(1)(C)	<p>Commenter recommends the following revised language:</p>	<p>Jeremy Merz California Chamber of Commerce</p>		

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>(b)(1)(C) The address(es) <b>and</b> telephone number(s), <del>and email address(es)</del> of the MPN Contact and MPN Access Assistants who can address MPN questions, and an MPN website.</p> <p>Commenter states that there is no statutory requirement that an email address be provided for an MPN Medical Access Assistant. Commenter opines that this requirement should be struck or, at a minimum, amended to be made voluntary.</p>	<p>Jason Schmelzer California Coalition on Workers' Compensation September 30, 2013 Written Comment</p>	<p>Reject: The statutory purpose of the MPN medical access assistant is "to help an injured employee find an available MPN physician...to respond to injured employees and to schedule an appointment." Communicating via e-mail is a common and efficient way to communicate and should be included.</p>	<p>None.</p>
9767.12(b)(1)(D)	<p>Commenter notes that this subsection states, "For periods when an employee is not covered by an MPN ...."</p> <p>Commenter recommends that it is clearer to state that, "For dates of injury occurring during the time period when an employee is not covered by an MPN ... "</p>	<p>Stephen J. Cattolica Director of Government Relations ADVOCAL September 30, 2013 Written and Oral Comments</p>	<p>Reject: Clarification is unnecessary because both are clear.</p>	<p>None.</p>
9767.12(b)(2)	<p>Commenter recommends the following revised language:</p> <p>(b)(2) The following language may be provided in writing to injured covered employees to give the required notice of the end of coverage under an MPN: "The &lt;Insert MPN Name&gt; Medical</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>		

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Provider Network (MPN) ) under MPN approval number &lt;Insert MPN approval number&gt; will no longer be used for injuries arising after &lt;Insert Date MPN Coverage Ends&gt;. You will/will not &lt;Select Whichever is Appropriate&gt; continue to use this MPN to obtain care for work injuries occurring before this date. <del>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.</del> For more information contact &lt;Insert MPN Contact and Access Assistants toll free number(s), MPN Address, MPN Email Address(es), and MPN Website."</p> <p>Commenter states that it is not necessary to include information on new injuries in the notice as the employee will receive a separate notice at the time of a new injury.</p> <p>Commenter states that no notice is necessary if the injured employee must continue to receive medical treatment under the MPN.</p> <p>Commenter opines that it will only serve to confuse the injured employee</p>		<p>Reject: It is necessary to include information on new injuries because the employer may no longer be using an MPN and its employees may have the right to choose their physician 30 days after notice is given to the employer of their new injury.</p> <p>Reject: When MPN coverage ends, an injured employee will be affected by the change despite that fact treatment for the injury incurred before the</p>	<p>None.</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	to receive an unnecessary notice and the administrative expense for a required but useless notice is also unnecessary.		end of MPN coverage may be allowed to continue under that MPN. For example, subsequent new injuries will no longer be covered under that MPN and the employer may be allowed to transfer care into another MPN.	
9767.12(b)(4)	<p>Commenter opines that it is unconscionable that an injured worker who has endured the MPN 2<sup>nd</sup> and 3<sup>rd</sup> opinion process and has determined to go to the MPN IMR process would need to start that entire process over again if the employer chooses to change MPNs. Commenter opines that there is no clinical reason he can think of that would make a material difference if an IMR physician from the surrendering MPN sees the injured worker. Commenter opines that the only sure thing is further delay and harm to the injured worker.</p> <p>Commenter requests that the language of this section be amended to take affect only upon the request of the injured worker. Commenter opines that since it is the employer who is liable for the cost of any disputed</p>	Stephen J. Cattolica Director of Government Relations ADVOCAL September 30, 2013 Written and Oral Comments	Reject: The IMR physician is provided by DWC not an MPN. Any dispute between the covered employee and the MPN physicians will end once MPN coverage ends because the injured employee will be seen by another physician.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	treatment, allowing the surrendering IMR decision to stand does not cost more. Higher costs would surely be avoided.			
9767.12(c)	Commenter notes the proposed deletion of the requirement to provide a Spanish language version of the notice of the MPN Independent Medical Review process. According to the Statement of Reasons, this requirement was deleted because it "is stated in the referenced IMR section." Commenter does not see any reference in Regulation section 9768.9(a) to providing this notice in Spanish. Commenter recommends that this requirement not be deleted from this section.	California Applicants' Attorneys Association September 29, 2013 Written Comment	Reject: The complete employee notification as set forth in 9767.12(a) includes the MPN Independent Medical Review process and shall be provided to employees in English and also in Spanish if the employee primarily speaks Spanish.	None.
9767.16, 9767.17. 9767.18 and 9767.19	Commenter states that among the changes to the MPN statute, Labor Code Section 4616 pursuant to SB 863 was the eligibility for a "new" MPN applicant, an "entity that provides network services." Commenter opines that the intent of this addition, similar to the structure of a WCHCO (Labor Code Section 4600.5), was to allow those entities (as defined) to become certified as MPNs so that employers, insurance carriers and third party claims administrators could "attach" to	Stephen J. Cattolica Director of Government Relations ADVOCAL September 30, 2013 Written and Oral Comments	Reject: Although the commenter correctly describes the potential rippling effect if an MPN violates either a code section or regulation and the same violation accrues against multiple employers or insurers, revisions to the regulatory text will be made to account for these situations in a reasonable and fair manner.	§9767.19(a) will be revised to add, "For MPN applicants who have multiple MPNs and for multiple MPNs using the same network, if a specific violation affects more than one MPN, multiple penalties will not be assessed against the MPN applicant(s) provided

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>the entity's MPN certification rather than going through individual certification processes that were, for all intents, identical.</p> <p>Commenter opines that an unintended consequence of this accommodation is that the provisions of the re-approval, probation (et al), complaint and penalty sections of this article, if found against an entity's MPN for one employer, carrier or claims administrator is effective for all. The foundation is that it is the same MPN for one employer as another, there is no difference. Commenter opines that if the certification of an MPN applicant that is an "entity providing network services" is suspended, put on probation or revoked, those actions accrue to all of the "attached" clients of that entity ... how can it not? Commenter recommends that the Division provide for this situation within these sections.</p>			<p>that the violation is remedied for all affected MPNs within a reasonable time period, as determined by the Administrative Director based on the nature and extent of the violation.”</p>
9767.14(a)(1)	<p>Commenter recommends the following revised language:</p> <p>Service under the MPN is not being provided according to the terms of the</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: DWC has no authority over the MPN Applicant’s</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	approved MPN plan. If the MPN is a network healthcare service entity or an applicant has more than one carrier or self insured employer covered under the plan, only the carrier or self insured employer that does not provide their component of the services according to the terms of the approved MPN plan would be removed from participation in the plan and the number of covered employees would be reduced.		clients. DWC only has authority to enforce the MPN statutes and regulations against an MPN Applicant. Ultimately, the MPN Applicant is responsible for the MPN.	
9767.14(a)(5)	<p>Commenter recommends the following revised language:</p> <p>The MPN knowingly continues to use the services of a provider or medical reviewer whose license, registration, or certification has been suspended, encumbered, on probation or revoked or who is otherwise ineligible to provide treatment to an injured worker under California law.</p>	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment	Reject: The current version of this section adequately addresses the concerns about the use of providers whose license, registration or certifications are subject to action rendering them ineligible to provide treatment.	None.
9767.14(a)(6)(A)	<p>Commenter notes that under this proposed language if an applicant is no longer eligible to have an MPN, the MPN is automatically suspended. Commenter supports this new rule. Commenter notes that the proposed language also provides that after a suspension ends "any transfer of the</p>	California Applicants' Attorneys Association September 29, 2013 Written Comment	Reject. There is no conflict between Labor Code §4603.2(a)(2) and the regulations of §9767.14(a)(6)(A). Labor Code §4603.2(a)(2) would apply in a very specific	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>employee's care back into the MPN shall be subject to the MPN transfer of care requirements." Commenter states that this language directly conflicts with Labor Code section 4603.2(a)(2) as added in SB 863. The new statutory provision states that where an employer objects to the employee's selection of a non-MPN physician and there is a final decision that the employee was entitled to select that physician, the employee is entitled to continue treatment with that physician "notwithstanding Section 4616.2." Commenter opines that this situation clearly fits within the intent of that statutory provision. Commenter states that if an MPN is suspended and the employee is authorized to receive treatment from a physician of his or her choice during that suspension, under LC section 4603.2(a)(2) the employee is clearly authorized to continue treatment with that physician of choice. Commenter notes that any other interpretation renders that statutory provision moot. Commenter recommends that the last sentence of subparagraph (A) be amended to read:</p> <p>"After a suspension has ended, the</p>		<p>situation where an employer objects to an injured employee's selection of a physician on the grounds that the physician is not within the medical provider network used by the employer and there is a final determination that the employee was entitled to select the physician pursuant to Labor Code §4600. Although a dispute as described in Labor Code §4603.2(a)(2) can certainly arise when an MPN attempts to transfer care of an injured worker into an MPN, the elements enumerated must be present. Pursuant to §9767.14(a)(6)(A), transfer of care would be appropriate because the specific elements enumerated in Labor Code §4603.2(a)(2) would not be present.</p>	

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>employee shall be entitled to continue treatment with a physician selected by the employee at the employer's expense."</p> <p>Commenter strongly urges the Division to delete the entire section 9767.9 as the change adopted in SB 863 clearly demonstrates that this section conflicts with the Labor Code.</p>			
9767.14(b)	<p>Commenter recommends the following revised language:</p> <p><b>The Administrative Director shall allow the MPN or MPN applicant an opportunity to correct the <u>deficiency violation</u> and/or to respond within ten days. If the Administrative Director determines that the <u>deficiencies violations</u> have not been cured, he or she shall issue a Notice of Action to the MPN Contact or the MPN Applicant that specifies the time period in which <u>probation</u>, the suspension or revocation will take effect and shall transmit the Notice of Action to the MPN applicant by U.S. Mail.</b></p> <p>Commenter opines that both the MPN and the MPN applicant should be</p>	<p>Mark Sektan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: The commenter separates MPNs from MPN Applicants when they are essentially one in the same. The MPN is the entity approved by the DWC as a Medical Provider Network and the MPN Applicant is legally responsible for the MPN. In other words, the MPN Applicant is the entity that legally acts on behalf of the MPN. It appears the commenter is mistaking an MPN for the underlying network of physicians that may make up the MPN.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	afforded the opportunity to correct the violations. Commenter opines that violations dealing with the make-up and maintenance of the MPN, e.g. access standards, should be addressed by the MPN not the MPN Applicant. Commenter states that in some cases the MPN Applicant is simply accessing an established MPN and does not have administrative function over the MPN.			
9767.14(b)	<p>Commenter recommends the following revised language:</p> <p>(b) If one of the circumstances in subdivision (a) exists, the Administrative Director shall notify the MPN applicant in writing of the specific <del>deficiencies</del> <u>violations</u> alleged. The Administrative Director shall allow the <u>MPN or</u> MPN applicant-an opportunity to correct the <del>deficiency violation</del> <u>and/or</u> to respond within ten days. If the Administrative Director determines that the <del>deficiencies</del> <u>violations</u> have not been cured, he or she shall issue a Notice of Action to the <u>MPN Contact</u> or the MPN Applicant that specifies the time period in which <u>probation</u>, the suspension or revocation will take</p>	Kathleen Bissell Liberty Mutual Insurance Company September 30, 2013 Written Comment	Reject: The commenter separates MPNs from MPN Applicants when they are essentially one in the same. The MPN is the entity approved by the DWC as a Medical Provider Network and the MPN Applicant is legally responsible for the MPN. In other words, the MPN Applicant is the entity that legally acts on behalf of the MPN. It appears the commenter is mistaking an MPN for the underlying network of physicians that may make up the MPN.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>effect and shall transmit the Notice of Action to the MPN applicant by U.S. Mail.</p> <p>Commenter opines that both the MPN and the MPN applicant should be afforded the opportunity to correct the violations. Commenter states that violations dealing with the make-up and maintenance of the MPN, e.g. access standards, should be addressed by the MPN not the MPN Applicant. Commenter notes that in some cases, the MPN Applicant is simply accessing an established MPN and does not have administrative function over the MPN.</p>			
9767.14(c)	<p>Commenter recommends the following revised language:</p> <p><b>An MPN applicant or MPN Contact may request a re-evaluation of the probation, suspension or revocation by submitting to the Administrative Director, within 20 days of the issuance of the Notice of Action, a written notice of the request for a re-evaluation with a detailed statement explaining the basis upon which a re-evaluation is requested.</b></p>	<p>Mark Sektan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: An MPN Applicant is legally responsible for an MPN. An MPN Contact may act on behalf of an MPN Applicant as its agent.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter opines that both the MPN and the MPN applicant should be afforded the opportunity to correct the violations. Commenter opines that violations dealing with the make-up and maintenance of the MPN, e.g. access standards, should be addressed by the MPN not the MPN Applicant. Commenter states that in some cases the MPN Applicant is simply accessing an established MPN and does not have administrative function over the MPN.</p>			
9767.14(c)	<p>Commenter recommends the following revised language:</p> <p>(c) An <u>MPN applicant</u> or <u>MPN Contact</u> may request a re-evaluation of the <u>probation</u>, suspension or revocation by submitting to the Administrative Director, within 20 days of the issuance of the Notice of Action, a written notice of the request for a re-evaluation with a detailed statement explaining the basis upon which a re-evaluation is requested. The request for a re-evaluation shall be accompanied by supportive documentary material relevant to the specific allegations raised and shall be verified under penalty of perjury. The</p>	<p>Kathleen Bissell Liberty Mutual Insurance Company September 30, 2013 Written Comment</p>	<p>Reject: An MPN Applicant is legally responsible for an MPN. An MPN Contact may act on behalf of an MPN Applicant as its agent.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>MPN application at issue shall not be re-filed; it shall be made part of the administrative record and incorporated by reference.</p> <p>Commenter opines that both the MPN and the MPN applicant should be afforded the opportunity to correct the violations. Commenter states that violations dealing with the make-up and maintenance of the MPN, e.g. access standards, should be addressed by the MPN not the MPN Applicant. Commenter notes that in some cases, the MPN Applicant is simply accessing an established MPN and does not have administrative function over the MPN.</p>			
9767.15	<p>Commenter opines that it is unclear from this language whether existing MPN's have until the time of their plan modification, due not later than 1/1/15, or their four-year re-filing, whichever is lesser, to comply with the new MPN regulations <i>operationally</i> and/or with the <i>written MPN plan update only</i>.</p> <p>Commenter opines that because SB863's MPN regulations must be operationalized in a series of logical</p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers' Compensation Services September 30, 2013 Written Comment</p> <p>Stephanie Leras Coventry Health Care Oral Comment</p>	<p>Reject: The timeline to file a modification and update to comply with the current regulations will be increased to allow additional time. Also the timeline to apply for reapproval will be increased to allow additional time.</p>	<p>§9767.15(a) will be revised from January 1, 2015 to January 1, 2016 to file a modification and update to comply with the current regulations and if the MPN is required to apply for reapproval before January 1, 2016.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>sequential steps, it is not feasible to perform all areas of compliance concurrently. For example, an MPN must receive and track MPN Provider Acknowledgements <i>prior</i> to assessing access issues and performing geocoding. Commenter recommends that a series of timeframes be included for existing MPNs to comply with the new MPN regulations operationally. Commenter states that fines and penalties should not be assessed the requisite sequential steps have been completed.</p> <p>Commenter requests that the rules be modified to allow for the following sequential timeframes:</p> <ol style="list-style-type: none"> <li>1. 3/1/14 -6/30/14-MPN acknowledgement tracked and entered for random review and geocoding purposes</li> <li>2. 7/1/14-9/30/14 geocoding performed and access gaps determined</li> <li>3. 10/1/14- 10/31/14 access gaps filled and/or Plan Modification prepared to remove inadequate service area from the MPN.</li> </ol>			

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>4. 11/1/14-12/31/14-DWC reviews and approves/denies plan modifications</p> <p>5. 1/1/15-Penalty assessment for non-compliance begins.</p>			
9767.15(b)(1)	<p>Commenter recommends the following revised language:</p> <p><b><u>The MPN applicant shall file a new complete application for reapproval no later than six months prior to the expiration of the MPN’s four-year date of approval or July 1, 2015 if the six month date would be prior to January 1, 2015.</u></b></p> <p>Commenter states that many MPNs were last approved or modified more than four years ago. Commenter opines that it would not be possible in those cases to file an application for re-approval prior to expiration.</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject in part. Agree in part. The regulations will be revised will provide a timeline for MPNs most recently approved on or before 1/1/2011. However, the language suggested by commenter will not be used.</p>	<p>§9767.15(b)(1) is revised to add “MPNs most recently approved on or before January 1, 2011 will be deemed approved until December 31, 2014. Reapprovals for these MPNs shall be filed no later than June 30, 2014.”</p>
9767.15(b)(5)	<p>Commenter recommends the following revised language:</p> <p>(b)(5) Each filing for reapproval shall use geocoding software to create a separate map for each <del>specialty</del> <u>provider type</u> for all listed providers within the service area to establish compliance with the access standards for the MPN geographic service area.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: Commenter recommends the use of the word “type” instead of “specialty” to describe how physicians are supposed to be categorized when determining if access standards are met. Labor Code §4616.3(d)(1) states, “Selection by the</p>	

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Please see her comment on section 9767.3(d)(8)(H).		injured employee of a treating physician and any subsequent physicians shall be based on the physician's <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.”	
9767.16(a)	<p>Commenter recommends the following revised language:</p> <p>Only an injured worker, provider, applicant, claims administrator, network service entity contending a Medical Provider Network is in violation of the requirements of this article or Labor Code sections 4616 through 4616.7 shall submit a written complaint directly with the MPN contact person.</p>	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment	Reject: Labor Code §4616(a)(4) specifically states, “any person may petition the administrative director to suspend or revoke the approval of the medical provider network.” Although §9767.16 addresses complaints, this oftentimes will be the first step in filing a petition to suspend or revoke.	None.
9767.16(a)	<p>Commenter notes that this section deals with complaints regarding MPNs. Subdivision (a) provides that a complaint is to be sent directly to the MPN contact person. Subdivision (b) then adds that where the MPN "has not remedied the violation or has not taken responsible action to remedy the violation within thirty (30) calendar days" the complainant may file a written complaint with the DWC. Commenter does not object to this</p>	California Applicants' Attorneys Association September 29, 2013 Written Comment	Reject: Complaints received will range from the credible to the specious. MPNs should be allowed the opportunity to quickly remedy credible complaints directly with the complainant. DWC is interested in credible complaints that have not been resolved. Requiring MPNs to maintain a listing of all complaints received is	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>basic process; however, strongly recommends that the MPN be required to maintain a listing of all complaints received, and that a copy of this log must be provided to the DWC upon request and at the time of any audit. This log should include a copy of the complaint and a summary of any action taken or any other response from the MPN.</p>		<p>overbroad and will not provide DWC with more useful information.</p>	
9767.16(a)(2)(B)	<p>Commenter recommends the following revised language:</p> <p><b><u>(B) Where the complaint is made by facsimile, the complaint shall be deemed to have been received by the MPN Contact on the date the receiving facsimile electronically date stamps the transmission if prior to 5:00 p.m. If there is no electronically stamped date recorded, then the date the request was transmitted. Receipt should be within normal business hours.</u></b></p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: Adding an additional time deadline will unnecessarily complicate the process of calculating the timeline.</p>	None.
9767.16(a)(2)(B)	<p>Commenter notes that the wording in this subsection indicates that when a complaint is submitted via facsimile, if there is no electronically stamped date recorded, then the “date of transmission” shall serve as the date</p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers’ Compensation Services</p>	<p>Reject: If a fax transmission failed, the sender would not receive a “date of transmission” confirmation. Rather, the sender will receive notice that the attempted fax</p>	None

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>the MPN is presumed to have received the complaint.</p> <p>Commenter opines that the fails to take into account the many facsimile transmission that are submitted that never reach their targeted destination. Commenter requests that the Division amend this subsection to require that proof of successful transmission via production of a successful transmission report is required to establish the MPN receipt date for a complaint via fax.</p>	<p>September 30, 2013 Written Comment</p>	<p>failed or was unsuccessful or there was an error in communication.</p>	
9767.16(a)(2)(C)	<p>Commenter recommends the following revised language:</p> <p><u>(C) Where the complaint is made by mail, and a proof of service by mail exists, the request shall be deemed to have been received by the MPN Contact five (5) days after the deposit in the mail at a facility regularly maintained by the United States Postal Service if the mailing address is within California and ten (10) days if outside California. Where the complaint is delivered via certified mail, return receipt mail, the request shall be deemed to have been received by the MPN Contract on the receipt</u></p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: Adding an additional date deadline will unnecessarily complicate the process of calculating the timeline.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><u>date entered on the return receipt. In the absence of a proof of service by mail or a dated return receipt, the complaint shall be deemed to have been received by the MPN Contact on the date stamped as received on the document.</u></p>			
9767.16(b)	<p>Commenter notes that under this subdivision a MPN has 30 calendar days to respond to a request from the AD for information or documentary evidence. A penalty of \$2,500 is proposed if the MPN fails to respond within 30 days, but there is no other provision to assure that the AD will ultimately obtain the necessary information. Commenter opines that this creates a disincentive for the MPN to comply with the regulation because in many cases the payment of a fine of \$2,500 would be much less costly than providing medical treatment to an employee. Commenter recommends that this rule be amended to provide that where the MPN does not submit the requested information or documentary evidence within 30 days, the AD shall immediately issue a notice of intent to assess the stated penalty, and that this notice shall also inform the MPN that the requested</p>	<p>California Applicants' Attorneys Association September 29, 2013 Written Comment</p>	<p>Reject: The Administrative Director may place the MPN on probation, suspension or begin the revocation process if the MPN fails to cooperate with DWC's requests for information. This should provide the incentive to cooperate if the monetary incentives do not compel cooperation by the MPN.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>information must be provided within 10 calendar days or additional penalties will be assessed. In addition, commenter recommends that Section 9767.19(a)(4) be amended to add subparagraph (B) that establishes a penalty of at least \$5,000 per day if the MPN fails to submit the information within the additional 10 calendar day time period.</p>			
9767.16(b)(3)	<p>Commenter states that this paragraph infers that where a MPN corrects a confirmed violation, no penalty will be assessed. Commenter opines that this paragraph should be amended to provide that a penalty shall be assessed in all cases where the evidence shows there has been a violation of the statutory or regulatory rules. Applying a penalty under these circumstances would be consistent with Labor Code section 5814(d) which establishes a "self-imposed penalty in the amount of 10 percent" where an employer discovers an unreasonable delay or denial of a benefit and pays the benefit voluntarily. Commenter opines that correcting a violation of the MPN rules through this complaint process should not be a "get out of jail free"</p>	<p>California Applicants' Attorneys Association September 29, 2013 Written Comment</p>	<p>Reject: The commenter makes an incorrect inference. The Administrative Director may assess penalties, place an MPN on probation, suspension or begin the revocation process even if the MPN corrects a confirmed violation.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>card. If the only "penalty" for violating the rules is that the MPN must stop the improper action and do what it should have done in the first place, this will create a perverse incentive to bend the rules.</p> <p>Commenter states that the right to establish an MPN and direct medical care must be partnered with responsibility to follow the rules, and there must be consequences for a failure to follow those rules.</p>			
9767.16(b); (b)(1)	<p>Commenter notes that this section requires that a complaint be filed with the MPN itself and that the MPN must respond within a prescribed time frame.</p> <p>Section 9767.16 (b) provides under the circumstance that the MPN has not timely taken reasonable action or has denied wrong doing the complainant may file a written complaint to the Division. Although it is implied, commenter believes that it is clarifying to explicitly list the circumstance that the MPN has not responded in any manner to the complaint.</p> <p>Section (b) (1) requires that the</p>	<p>Stephen J. Cattolica Director of Government Relations ADVOCAL September 30, 2013 Written and Oral Comments</p>	<p>Reject: Determining when an MPN has taken "reasonable action" can only be done on a case-by-case basis. Providing a list of circumstances that show examples when the MPN has not responded in any manner to the complaint will be too confining and inadequate.</p> <p>Reject: The process to send a</p>	<p>None.</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	complainant use the DWC's MPN complaint form and that it be "served" on the MPN contact. Commenter opines that formal service is a procedure that an injured worker is likely not to be familiar with or understand.		copy of the DWC's MPN Complaint Form to the MPN Contact should not be very difficult to understand.	
9767.16.5	<p>Commenter recommends the following revisions to the proposed MPN Complaint Form (note commenter submitted a new version of this form that is available upon request):</p> <p><u>If the MPN fails to remedy the violation within 30 calendar days from the date the complaint was made to the MPN, the complainant can file a written complaint with the DWC by:</u></p> <ol style="list-style-type: none"> <li><u>1. Using the DWC Complaint form;</u></li> <li><u>2. Attaching “documentary evidence that the MPN has been notified” of the violation; and</u></li> <li><u>3. Serving a copy of the complaint on the MPN</u></li> </ol> <p>Commenter recommends that the Division add this information to the DWC Complaint form. Commenter notes that this information is in the</p>	Brenda Ramirez Claims & Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments	Reject: Commenter recommends adding language to the form that is already in the regulatory text in §§9767.16(b) and (b)(1). Repeating this language in the form is unnecessary.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>draft regulation but it is not currently included on the form and she opines that it will be overlooked, particularly by injured employees who are not conversant with the detailed content of regulations.</p> <p><input type="checkbox"/>Other: _____</p> <p>Commenter opines that a prompt is necessary to identify the role of the person filing the complaint.</p>		<p>Reject: The prompt for “other” is already included in the form.</p>	<p>None.</p>
9767.16.5	<p>Commenter states that the Complaint Form is to be served on the MPN contact. Commenter opines that since most injured workers, except perhaps those that are represented, have little or no understanding of what the term "serve" means, commenter requests that instruction be provided on the Complaint Form regarding how to formally serve the form and that a proof of service section be part of the form expressly to aid the injured worker in complying with the requirements of this section.</p>	<p>Stephen J. Cattolica Director of Government Relations ADVOCAL September 30, 2013 Written and Oral Comments</p>	<p>Reject: The process to send a copy of the DWC’s MPN Complaint Form to the MPN Contact should not be very difficult to understand.</p>	<p>None.</p>
9767.17	<p>Commenter recommends deletion of the term “authorized individual.”</p> <p>Commenter opines that changing the requirement to serve the MPN Contact</p>	<p>Kathleen Bissell Liberty Mutual Insurance Company September 30, 2013 Written Comment</p>	<p>Reject: The MPN Contact is the individual designated by the MPN Applicant to be responsible for responding to complaints. However, the</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>will provide a more direct and timely method of communicating with the MPN. Commenter states that the Authorized Individual relates to the applicant, which could be a self-insured entity or insurer who accesses an MPN through a TPA agreement. Commenter states that these individuals do not handle the administration of the MPN. Commenter notes that this notification is similar to the complaint notification, section 9767.16 (a), which requires submission to the MPN Contact.</p>		<p>Authorized Individual is the individual who acts on behalf of the MPN Applicant and the MPN Applicant is legally responsible for the MPN.</p>	
9767.17(a)(2)	<p>Commenter recommends the following revised language:</p> <p>A systematic failure to meet access standards by failing to have at least three physicians available for each commonly used specialty listed in the MPN application in at least two specific locations within the MPN geographic service area described in the MPN plan, unless the MPN has a policy that allows the injured worker to treat outside the MPN in a healthcare shortage and the MPN did not allow such treatment.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: Revisions are made to §9767.5 that would make this recommended language unnecessary in §9767.17(a)(2).</p>	<p>A revision was made to add §9767.5(c) “If a covered employee is not able to obtain from an MPN physician reasonable and necessary medical treatment within the applicable access standards in subdivisions (a) or (b) and the required time frames in subdivisions (f) and (g), then the MPN shall have a written policy permitting the</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
				covered employee to obtain necessary treatment for that injury from an appropriate specialist outside the MPN within a reasonable geographic area.”
9767.17(a)(2)	<p>Commenter notes that this proposed rule requires that a MPN must fail to meet access standards "in at least two specific locations" before a Petition to Suspend or Revoke a Medical Provider Network form may be filed with the DWC. Commenter opines that this requirement makes this rule virtually meaningless. An individual worker, or his or her attorney, will generally be familiar with the availability of MPN physicians in only a single location. Commenter notes that over multiple cases an attorney may be able to identify a violation in two separate areas, but because of the passage of time the evidence may no longer be applicable.</p> <p>Commenter states that he sees no justification for requiring evidence of a violation "in at least two specific locations." Commenter opines that the</p>	California Applicants' Attorneys Association September 29, 2013 Written Comment	Reject: To suspend or revoke an MPN requires a severe violation or deficiency of the requirements set forth in Labor Code §4616 et seq. Labor Code §4616(a)(4) expressly allows for the assessment of penalties or probation or both, “in lieu of revocation or suspension for less severe violations of the requirements of this article.” Therefore, to make a determination that an MPN “is not validly constituted” must be severe enough to compose of a systematic failure in the MPN or a change in the MPN Applicant’s eligibility status.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>failure to provide an adequate number and type of physicians to treat common injuries in a single location can impact hundreds or even thousands of workers, and this is a clear violation of the statutory requirement set forth in Labor Code section 4616(a)(1). Commenter strongly urges that this paragraph be amended to provide that an allegation of the failure to meet access standards in a single location be grounds for filing this petition.</p>			
9767.17(a)(2)	<p>Commenter recommends the following revised language:</p> <p><b><u>A systemic failure to meet access standards under 9767.5(a) through (d) by failing to have at least three physicians available for each commonly used specialty listed in the MPN application in at least two specific locations in at least two separate offices within the MPN geographic service area described in the MPN plan.</u></b></p> <p>Commenter states that section 9767.5 (a) requires, in part that an MPN must have at least three available physicians</p>	<p>Mark Sektan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: To suspend or revoke an MPN requires a severe violation or deficiency of the requirements set forth in Labor Code §4616 et seq. Labor Code §4616(a)(4) expressly allows for the assessment of penalties or probation or both, “in lieu of revocation or suspension for less severe violations of the requirements of this article.” Therefore, to make a determination that an MPN “is not validly constituted” must be severe enough to compose of a systematic failure in the MPN or a change in the MPN</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>of each specialty to treat common injuries experienced by injured employees, while 9767.17(a)(2) allows any person to Petition for Suspension or Revocation of a MPN if the petitioner can show a systematic failure to meeting access standards under 9767.5(a) through (d), by failing to have at least three physicians available for each commonly uses specialty listed in the MPN application in at least two specific locations within the MPN geographic service area. Commenter states that there is no requirement to have at least three physicians in at least two specific locations in 9767.5(a) through (d). Commenter opines that the concept of “two specific locations” limits the rights of the MPN and is not consistent with the existing access standards found in 9767.5. Commenter opines that the phrase “two specific locations” could potentially be interpreted to mean two different street addresses or buildings. Commenter states that this does not address situations where providers may have separate practices but those offices are located in a central medical facility building.</p>		Applicant’s eligibility status.	

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.17(a)(2)	<p>Commenter recommends adding the following sentence to the end of this subsection:</p> <p><u>For the purposes of this subdivision, “systematic failure” does not apply where the MPN has a policy which allows a covered employee to select a primary treating physician or treating physician outside the MPN for the geographic service area described in the MPN plan.</u></p> <p>Commenter notes that this section indicates that any person who can show a “systematic failure to meet access standards” may file a DWC Petition to Suspend or Revoke an MPN Form. Commenter opines that the meaning of “systematic” is ambiguous and needs clarification. State Fund recommends that the proposed language be amended to further qualify “systematic failure”.</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>Reject in part. Accept in part: Revisions are not made to this section as a result of this comment. However, revisions are made to §9767.5 that would make this recommended language unnecessary in §9767.17(a)(2).</p> <p>Accept: Revisions are made to this section to clarify the meaning of “systematic failure”</p>	<p>A revision was made to add §9767.5(c) “If a covered employee is not able to obtain from an MPN physician reasonable and necessary medical treatment within the applicable access standards in subdivisions (a) or (b) and the required time frames in subdivisions (f) and (g), then the MPN shall have a written policy permitting the covered employee to obtain necessary treatment for that injury from an appropriate specialist outside the MPN within a reasonable geographic area.”</p> <p>§9767.17(c) is revised “That an MPN has systematically failed to meet access</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
				standards under 9767.5 at minimum, on more than one occasion in at least two specific access locations within the MPN geographic service area. Additionally, the MPN failed to ensure in each instance that a worker received necessary medical treatment within the MPN or failed to authorize treatment outside of the MPN within the required time frames and access standards.”
9767.17(a)(2)	<p>Commenter recommends the following revised language:</p> <p>(a)(2) A systematic failure to meet access standards under 9767.5(a) through (d), by failing to have <del>at least three physicians</del> <u>available for each of the five types of physician most commonly used to treat the five most common injuries listed in the MPN application commonly used specialty</u></p>	Brenda Ramirez Claims & Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments	Reject: Disagree with commenter's definition of "type" of physician. As mentioned in above response, Labor Code §4616.3(d)(1) states, "Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician's <b>specialty</b> or recognized expertise in treating	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><del>listed in the MPN application</del> in at least <u>fifteen (15) percent of the two</u> specific locations within the MPN geographic service area described in the MPN geographic service area described in the MPN plan <u>unless the injured employee is authorized to go outside the network.</u></p> <p>Please review her comments on sections 9767.1(a)(25) and 9767.5(a) through (d).</p> <p>Commenter opines that two specific locations in an MPN with a small geographic service area is a very different standard than for two specific locations in an MPN with a statewide geographic service area. Commenter opines that the standard will be unfair and invalid unless proportionately determined.</p> <p>Commenter opines that no violation should be found if the injured employee is authorized to go outside the network.</p>		<p>the particular injury or condition in question.” In addition, a minimum of three physicians in each specialty are needed to fulfill access standards because of Labor Code §4616.3 requirements that specifically describes an injured worker’s right to seek a second and third opinion from physician’s in the MPN.</p> <p>Agree: Revisions are made to this section to clarify the meaning of “systematic failure”</p>	<p>§9767.17(c) is revised “That an MPN has systematically failed to meet access standards under 9767.5 at minimum, on more than one occasion in at least two specific access locations within the MPN geographic service area. Additionally, the MPN failed to ensure in each instance that a worker received necessary medical treatment within the</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
				MPN or failed to authorize treatment outside of the MPN within the required time frames and access standards.”
9767.17(a)(2)	<p>Commenter recommends the following revised language:</p> <p>A systematic failure to meet access standards under 9767.5(a) through (d), by failing to have at least three physicians available for each <del>commonly used specialty</del> injury or illness listed in the MPN application in <del>at least two</del> <u>more than four</u> specific locations within the MPN geographic service area described in the MPN plan <u>over a continuous 3 month period after complaints have been filed and MPN failed to respond.</u></p> <p>Commenter states that there are circumstances when there are no providers of all common specialties available and the MPN is required to allow the employee to treat outside the MPN. Commenter opines that this penalty should be reserved only for those rare times when the MPN is unresponsive over a specific,</p>	<p>Anita Weir, RN CRRN Director, Medical &amp; Disability Management Safeway, Inc. September 30, 2013 Written Comment</p>	<p>Reject: The language suggested will to be used although revisions are made to this section to clarify the meaning of “systematic failure”</p>	<p>§9767.17(c) is revised “That an MPN has systematically failed to meet access standards under 9767.5 at minimum, on more than one occasion in at least two specific access locations within the MPN geographic service area. Additionally, the MPN failed to ensure in each instance that a worker received necessary medical treatment within the MPN or failed to authorize treatment outside of the MPN</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	reasonable timeframe AND does not allow the employee to treat outside the MPN. Commenter opines that revocation of an entire network when there are only 2 areas non-compliant is a waste of resources and a focus for excessive litigation.			within the required time frames and access standards.”
9767.17(c)	Commenter notes that this subdivision requires the complainant to prove non-compliance by the MPN. Commenter strongly objects to this proposal. Commenter opines that for an unrepresented employee, these rules essentially foreclose any possibility that this individual can participate in this process. Commenter states that with the establishment of an MPN, the employer, insurer, or other entity must assume full responsibility for complying with all applicable rules and regulations. Commenter opines that where there is credible evidence of non-compliance, it is not the responsibility of the injured employee or his or her representative to prove that non-compliance, it must be the responsibility of the MPN to prove compliance. Commenter recommends that this subdivision be rewritten to require only that the petitioner must provide credible evidence that an	California Applicants’ Attorneys Association September 29, 2013 Written Comment	Reject: Unrepresented employees or any person may file a Petition for Suspension or Revocation of a Medical Provider Network but must meet a high standard to successfully suspend or revoke an MPN as is the intent of Labor Code §4616(b)(5). There are other avenues that unrepresented employees or any person may pursue for less severe violations such as the filing of a complaint and the DWC may assess penalties or place the MPN on probation.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	MPN no longer meets the eligibility requirements to have a Medical Provider Network or that an MPN fails to meet the access standards set forth in the regulations.			
9767.17(c)	<p>Commenter recommends the following revised language:</p> <p><b><u>The petitioner shall concurrently serve a copy of the completed DWC Petition for Suspension or Revocation of a Medical Provider Network Form 9767.17.5 along with a copy of all supporting documentation on the MPN's designated Contact authorized individual.</u></b></p> <p>Commenter opines that changing the requirement to serve the MPN's designated Contact will provide a more direct and timely method of communicating with the MPN. Commenter states that the Authorized Individual relates to the applicant, which could be a self-insured entity or insurer who accesses an MPN through a TPA agreement. Commenter states that these individuals do not handle the administration of the MPN.</p>	Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment	Reject: The MPN Contact is the individual designated by the MPN Applicant to be responsible for responding to complaints. However, the Authorized Individual is the individual who acts on behalf of the MPN Applicant and the MPN Applicant is legally responsible for the MPN.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter states that this notification is similar to the complaint notification, section 9767.16 (a), which requires submission to the MPN Contact.</p>			
9767.17.5	<p>Commenter recommends the following revisions to the proposed DWC Petition to Suspend or Revoke an MPN Form (note commenter submitted a new version of this form that is available upon request):</p> <p>MPN APPROVAL/LOG_NO:</p> <p>Commenter opines that the log number is not necessary.</p> <p>_____THE MPN <del>HAS</del> FAILED TO MEET ACCESS STANDARDS FOR COMMONLY USED <u>SPECIALTY(IES) PHYSICIAN TYPES</u> LISTED IN THE APPLICATION IN THE FOLLOWING LOCATIONS <del>OR</del> <u>SPECIALTIES</u> IN THE MPN GEOGRAPHIC SERVICE AREA:</p> <p>LOCATION: _____</p> <p><u>SPECIALTY PHYSICIAN TYPE:</u></p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Accept: The form will be revised to delete "Log No."</p> <p>Reject: DWC is interpreting "types" to mean "specialties".</p>	<p>"Log No." is deleted from DWC Forms Part (A) and Part (B).</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>_____</p> <p>LOCATION:</p> <p>_____</p> <p><u>SPECIALTY PHYSICIAN TYPE:</u></p> <p>_____</p> <p>LOCATION:</p> <p>_____</p> <p><u>SPECIALTY PHYSICIAN TYPE:</u></p> <p>_____</p> <p>Please review her comments on sections 9767.1(a)(25)(C).</p>			
9767.18	<p>Commenter states that a max of 25 errors at \$1,000 per error x 212 MPN's is \$21,200,000.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: This comment addresses a penalties issue rather than a random review issue. §9767.19 will be revised so that if an MPN violates either a code section or regulation and the same violation accrues against multiple employers or insurers, revisions to the regulatory text will be made to account for these situations in a reasonable and fair manner.</p>	<p>§9767.19(a) will be revised to add, “For MPN applicants who have multiple MPNs and for multiple MPNs using the same network, if a specific violation affects more than one MPN, multiple penalties will not be assessed against the MPN applicant(s) provided</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
				that the violation is remedied for all affected MPNs within a reasonable time period, as determined by the Administrative Director based on the nature and extent of the violation.”
9767.18(a)	<p>Commenter recommends the following revised language:</p> <p>The Administrative Director, or his or her designee, may conduct random reviews of any approved Medical Provider Network at the participant level to determine if the requirements of this article and Labor Code section 4616 through 4616.7 are being satisfied.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: DWC will not have authority to conduct random reviews of an MPN’s clients.</p>	<p>None.</p>
9767.18(a)(2)(A)	<p>Commenter recommends the following revised language:</p> <p><b><u>(A) Issue a “Notice of Random Review” to a Medical Provider Network’s designated Contact authorized individual specifying the parameters of the review, including the time frame and scope of the</u></b></p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: The MPN Contact is the individual designated by the MPN Applicant to be responsible for responding to complaints. However, the Authorized Individual is the individual who acts on behalf of the MPN Applicant and the MPN Applicant is legally</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><b><u>review.</u></b></p> <p>Commenter opines that the notification should be issued or given to the MPN’s designated Contact. Commenter states that in some cases the MPN Applicant is simply accessing an established MPN and does not have administrative function over the MPN. Commenter opines that by issuing the notice to the MPN Contact would provide a more direct and timely means of communication.</p>		responsible for the MPN.	
9767.18(a)(2)(A)	<p>Commenter recommends deletion of the term “authorized individual.”</p> <p>Commenter opines that the notification should be issued or given to the MPN Contact. Commenter notes that in some cases, the MPN Applicant is simply accessing an established MPN and does not have administrative function over the MPN. Commenter opines that issuing the notice to the MPN Contact would provide a more direct and timely means of communication.</p>	Kathleen Bissell Liberty Mutual Insurance Company September 30, 2013 Written Comment	Reject: The MPN Contact is the individual designated by the MPN Applicant to be responsible for responding to complaints. However, the Authorized Individual is the individual who acts on behalf of the MPN Applicant and the MPN Applicant is legally responsible for the MPN.	None.
9767.18(a)(2)(B)(v)	Commenter recommends the following revised language:	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment	Reject: Although the commenter’s recommended language will not be adopted, §9767.18(a)(2)(B)(v) will be	Section 9767.18(a)(2)(B)(v) is revised to delete “during the last thirty

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	A copy of the telephone call logs tracking the calls and the contents of the calls made to and by the MPN medical access assistants and the MPN contact person during the last thirty (30) calendar days preceding the date of the DWC request.		revised to allow DWC more discretion to determine the time period for which call logs should be submitted.	(30) calendar days preceding the date of the DWC request” and replacing it with “within a reasonable time period.”
9767.18(a)(2)(B) (vi)	<p>Commenter recommends the following revised language:</p> <p>Copies of the written and/or electronic physician or group acknowledgements and/or opt outs to be in the MPN.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The requirement for MPNs to provide the DWC with physician acknowledgments should suffice.</p>	<p>None.</p>
9767.18(a)(2)(B) (v)	<p>Commenter recommends that this requirement be removed.</p> <p>Commenter states that the MPN Medical Access Assistant logging requirement is well beyond the scope of statutory authority and overly burdensome. Commenter opines that there will be thousands of entries in these logs and the time needed to track and log each entry will overwhelm operations. Additionally, during normal business hours, the claims administrator will also serve as the Medical Access Assistant, making it difficult to distinguish between calls specifically for MPN medical access</p>	<p>Jeremy Merz California Chamber of Commerce</p> <p>Jason Schmelzer California Coalition on Workers’ Compensation September 30, 2013 Written Comment</p>	<p>Reject: DWC must be able to review the MPN Medical Access Assistant telephone logs in order to properly regulate their actions and to effectuate the statutory mandates.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>purposes and other inquiries regarding the workers' compensation claim. Commenter opines that this section should be struck or, at a minimum, amended to make this requirement voluntary.</p>			
9767.18(a)(2)(B) (ii)	<p>Commenter recommends removing this requirement as the DWC is in possession of all MPN plan submissions.</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: Although DWC may already be in possession of all MPN plan submissions, a Random Review of an MPN is akin to an audit that requires the submission of evidence from the party being reviewed.</p>	None.
9767.18(a)(2)(B) (v)	<p>Commenter would like to know what specific information that the DWC expects the telephone call logs to contain.</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: As unnecessary. Any conversations between a MPN Medical Access Assistant and an injured employee or his/her agent should be logged.</p>	None.
9767.18(a)(2)(B) (i)	<p>Commenter recommends deleting this subsection.</p> <p>Commenter opines that it is not necessary to provide the most recent approved plan submission, cover page and all attachments as the Division already has them in its possession.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: Although DWC may already be in possession of all MPN plan submissions, a Random Review of an MPN is akin to an audit that requires the submission of evidence from the party being reviewed.</p>	None.
9767.18(a)(2)(B) (v)	<p>Commenter recommends deleting this subsection.</p>	<p>Brenda Ramirez Claims &amp; Medical Director</p>	<p>Reject: DWC must be able to review the MPN Medical Access Assistant telephone</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter opines that telephone logs are not, and should not be required. Commenter states that if reference to telephone logs remains there should be clarification that they are optional, not required.</p>	<p>California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>logs in order to properly regulate their actions and to effectuate the statutory mandates.</p>	
<p>9767.18(a)(2)(B)(v)</p>	<p>Commenter recommends that the proposed language be deleted.</p> <p>Commenter opines that this is very costly time-consuming program to establish. Commenter states that most of the calls will be made to the claims examiner or nurse case manager and will contain content of a personal nature beyond just the request for an appointment. Commenter states that documentation may be in claims system notes as well as a call center type log.</p>	<p>Anita Weir, RN CRRN Director, Medical &amp; Disability Management Safeway, Inc. September 30, 2013 Written Comment and Oral Comment</p>	<p>Reject: DWC must be able to review the MPN Medical Access Assistant telephone logs in order to properly regulate their actions and to effectuate the statutory mandates. If an individual is acting in the capacity of an MPN Medical Access Assistant, then any calls taken from an injured employee or his/her agent must be logged despite any dual role the MPN Medical Access Assistant may also have.</p>	<p>None.</p>
<p>9767.18(a)(4)</p>	<p>Commenter recommends the following revised language:</p>	<p>Mark Sektnan, President</p>	<p>Reject: The MPN Contact is the individual designated by</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><u>If the review reveals that the MPN has violated or is in violation of a provision of this article or of Labor Code sections 4616 through 4616.7, the Administrative Director shall notify the MPN Contact applicant in writing of the specific violation(s) found and may follow the procedures set forth in section 9767.14 and/or section 9767.19. The MPN shall have fifteen (15) business days to appeal the violation(s).</u></p> <p>Commenter opines that as this review relates to the MPN, notification should be sent to the MPN contact not the MPN Applicant. Commenter states that in some cases the MPN Applicant is simply accessing an established MPN and does not have administrative function over the MPN. Commenter opines that the MPN should be afforded an opportunity to be heard before the review is finalized. This is consistent with section 9767.19 (b) where the MPN is afforded the opportunity to request re-evaluation.</p>	<p>Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>the MPN Applicant to be responsible for responding to complaints. The commenter separates MPNs from MPN Applicants when they are essentially one in the same. The MPN is the entity approved by the DWC as a Medical Provider Network and the MPN Applicant is legally responsible for the MPN. In other words, the MPN Applicant is the entity that legally acts on behalf of the MPN. It appears the commenter is mistaking an MPN for the underlying network of physicians that may make up the MPN.</p>	
9767.18(a)(4)	Commenter recommends deletion of	Kathleen Bissell	Reject: The MPN Contact is	None.

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>the term “applicant” and insertion of the term “contact” in this subsection.</p> <p>Commenter opines that as this review relates to the MPN, notification should be sent to the MPN contact not the MPN Applicant. Commenter notes that in some cases, the MPN Applicant is simply accessing an established MPN and does not have administrative function over the MPN. Commenter opines that the MPN should be afforded an opportunity to be heard before the review is finalized. Commenter states that this is consistent with section 9767.19 (b) where the MPN is afforded the opportunity to request re-evaluation.</p>	<p>Liberty Mutual Insurance Company September 30, 2013 Written Comment</p>	<p>the individual designated by the MPN Applicant to be responsible for responding to complaints. The commenter separates MPNs from MPN Applicants when they are essentially one in the same. The MPN is the entity approved by the DWC as a Medical Provider Network and the MPN Applicant is legally responsible for the MPN. In other words, the MPN Applicant is the entity that legally acts on behalf of the MPN. It appears the commenter is mistaking an MPN for the underlying network of physicians that may make up the MPN.</p>	
9767.19	<p>Commenter is concerned that the scope and severity of the proposed penalties in Section 9767.19 may act as a deterrent to maintaining current MPNs and the creation of new MPNs. Commenter does not object to there being a penalty structure; however, he opines that the severity of many of the penalties far outweigh the effects of the defects. Commenter states that</p>	<p>Steven Suchil Assistant Vice President/Counsel American Insurance Association September 27, 2013 Written Comment</p>	<p>Reject: This is a general statement of concern or disagreement but no specifics were provided.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>some of the time limits should be extended, there should be a provision for mitigation, and the number of penalties should be reduced. Commenter requests that the division reconsider the proposed penalty provisions, and the proportionality of the fines to the underlying activity.</p>			
9767.19	<p>Commenter recommends that penalties be increased for violations that impact either a notice of or the receipt of medical treatment to an injured employee. Commenter notes that failure to respond to calls made to the MPN medical access assistant by the next day, excluding Sunday and holidays is currently \$250 for each occurrence and \$50 for each additional day a response is not provided, up to a total of \$1,000 per occurrence. Commenter states that the failure of the medical access assistant to respond promptly can delay treatment and return to work, harming both the employee and the employer. For this situation, commenter suggests a penalty of at least \$1,000 per day would be appropriate, with no aggregate maximum (as there would be no incentive to comply once the maximum penalty was due).</p>	<p>California Applicants' Attorneys Association September 29, 2013 Written Comment</p>	<p>Reject: The penalty of \$250 for each occurrence and \$50 for each additional day a response is not provided, up to a total of \$1,000 per occurrence is a sufficient penalty. DWC may also place the MPN on probation, or begin the suspension or revocation process if the MPN continues to be uncooperative.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter opines that other penalties that directly impact the employee's receipt of medical treatment should also be evaluated. Commenter would like to know why, for example, should the failure to assure an appointment for non-emergency treatment within 3 days, or the failure to assure an appointment for non-emergency specialty services within 20 days, be assessed a penalty of \$500, while the failure to respond to a request for information or documentary evidence pursuant to an MPN complaint is assessed a penalty of \$2,500? Where a violation can or does result in a delay in treatment to the employee, commenter believes that the penalty for those violations should be significantly higher.</p>		<p>Reject: In the scenarios described by the commenter, the higher penalty will be assessed because the MPN has been notified of a violation by a complainant and the DWC and is not responding in a timely fashion or is refusing to cooperate. Whereas the scenario described with the lesser penalty may be a one-time oversight by the MPN.</p>	None
9767.19	<p>Commenter is concerned that the proposed penalty scheme in these proposed regulations will restrict the scope of statute authorizing the creation and use of Medical Provider Networks. Commenter opines that the threat of excessive access standards and penalties will curtail legitimate network operations that the statute permits. Commenter provides a more</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: The penalty regulations follow the statutory language of establishing a schedule of administrative penalties not to exceed five thousand dollars (\$5,000) per violation.</p>	<p>See responses to commenter's more specific recommendations.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	extensive argument which is available upon request in her formal written comments.			
9767.19	Commenter notes that the heading of this section makes reference to a hearing process but the rules themselves have no such provision for a hearing. Commenter requests that the title be amended to remove the term "Hearing."	Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers' Compensation Services September 30, 2013 Written Comment	Reject: The hearing process is set forth in §9767.19(g) which references WCAB Rule 10959.	None.
9767.19	<p>Commenter opines that this section imposes economic penalties on MPNs for seemingly de minimus clerical errors. Commenter states that the language throughout this section lacks the definition or structure needed to understand and plan for within his organization. Commenter recommends that the regulations should provide a clearly defined notice process and a cure period.</p> <p>Commenter provides section 9767.19 as an example noting that economic penalties will be levied upon MPNs that fail to meet access requirements, such as for failure to update provider listings quarterly. Commenter opines that for those MPNs that have a large number of providers, this will be very</p>	Greg Moore President, Harbor Health Systems One Call Care Management September 30, 2013 Written Comment Oral Comment	<p>Reject: The specific example commenter describes regarding the quarterly updates of the provider listings is statutorily mandated pursuant to Labor Code §4616(a)(4). Maintaining accurate MPN provider listings is very important and violations are taken seriously. Clerical errors, if they are truly de minimus, may be considered a mitigating factor.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>time consuming and burdensome to update on a quarterly basis. Commenter opines that the short window to allow the public to report any inaccurate listings creates an enormous burden on MPN providers since \$250 for each inaccurate entry, such as an inaccurate suite number or other minor changes, is excessive. Commenter recommends a process whereby MPN providers must correct listings within a reasonable time, and any fines would be assessed on an annual basis and only for those that are material (e.g., a practice changes entirely).</p>			
9767.19	<p>Commenter is concerned that these penalties are heavy handed and have discouraged some organizations from moving forward with their MPNs.</p>	<p>Margaret Wagner Signature Networks Plus, Inc. September 30, 2013 Written and Oral Comments</p>	<p>Reject: The penalty regulations follow the statutory language of establishing a schedule of administrative penalties not to exceed five thousand dollars (\$5,000) per violation.</p>	None.
9767.19	<p>Commenter requests that the Division make changes to the penalty structure to create an MPN system that aligns the penalty provisions with issues that negatively impact the injured workers' ability to obtain quality care and, at the same time, recognizes the need to reduce costs for insurers and</p>	<p>Patricia Brown Appellate Attorney State Compensation Insurance Fund September 30, 2013 Written and Oral Comments</p>	<p>Reject: The penalty regulations follow the statutory language of establishing a schedule of administrative penalties not to exceed five thousand dollars (\$5,000) per violation.</p>	None.

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>employers.</p> <p>Commenter opines that the proposed penalty schedule imposes aggressive compliance deadlines that do not necessarily impact an injured worker’s ability to timely access medical care. Commenter states that tight timeframes to submit notification regarding MPN plan modifications may have little or no bearing on an injured workers’ access to care. Commenter opines that quarterly updates for plan modification should suffice unless the changes are significant and will adversely affect injured workers. Commenter states that the proposed schedule imposes potential aggregate penalties for omissions or errors as to one notification in which multiple changes were needed. Commenter opines that this could result in the potential for exorbitant and duplicative penalties regardless of the seriousness of the violation or its impact.</p>		<p>Reject: Compliance deadlines are aggressive because these violations relate to a MPNs eligibility status, the ability to contact and communicate with the MPN and information being sent to injured workers’ about the MPN.</p> <p>Accurate provider listings are imperative to an injured worker’s ability to timely access medical care.</p> <p>Accept in part. The regulatory provisions will be amended to clarify the aggregate penalties potential for omissions or errors as to one notification in which multiple changes are needed.</p>	<p>None.</p> <p>None.</p> <p>§9767.19(a) will be revised to add, “For MPN applicants who have multiple MPNs and for multiple MPNs using the same network, if a specific violation affects more than one MPN, multiple penalties will not be assessed against the MPN applicant(s) provided that the violation is remedied for all</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
				affected MPNs within a reasonable time period, as determined by the Administrative Director based on the nature and extent of the violation.”
9767.19 – General Comment	<p>Commenter recognizes and supports DWC’s efforts to implement penalties for non-compliance with the MPN statutes and regulations. Commenter opines that the proposed penalties are unreasonably high and will significantly discourage MPN utilization.</p> <p>Commenter opines that penalizing employers and insurers for minor administrative oversight is unnecessary, and discourages usage of MPNs, which is in direct opposition with the Legislature’s intent to make MPNs more efficient and effective.</p> <p>Commenter opines that the stated timeframes for compliance in most instances are restrictively short.</p> <p>Commenter opines that the penalty</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p> <p>Patricia Brown State Compensation Insurance Fund September 30, 2013 Oral Comment</p>	<p>Reject: These penalty regulations follow the statutory language of establishing a schedule of administrative penalties not to exceed five thousand dollars (\$5,000) per violation.</p> <p>Reject: Employers and insurers will not be penalized for minor administrative oversights, if listed in the Penalty Schedule, than the violation is not considered to be a minor administrative oversight.</p> <p>Reject: Compliance deadlines are aggressive because these violations relate to a MPN’s eligibility status, the ability to contact and communicate with the MPN and information</p>	<p>None.</p> <p>None.</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>amounts are disproportionate to the corresponding violations.</p> <p>Commenter states that most of the network access requirement penalties are unsupported by any statute or regulation.</p> <p>Commenter notes that several of the large penalty amounts are for administrative functions and have no impact on an injured employee's access to medical care.</p> <p>Commenter recommends that the administrative penalties in the proposed schedule be reduced to be more in line with existing penalty schedules.</p>		<p>being sent to injured workers' about the MPN.</p> <p>Reject: The network access requirements are set forth in §9767.5</p> <p>Reject: The penalties for administrative functions relate to a MPN's eligibility status, the ability to contact and communicate with the MPN and information being sent to injured workers' about the MPN. This impacts an injured employee's access to medical care.</p> <p>Reject: These penalty regulations follow the statutory language of establishing a schedule of administrative penalties not to exceed five thousand dollars (\$5,000) per violation.</p>	<p>None</p> <p>None.</p> <p>None.</p>
9767.19(a)	<p>Commenter recommends the following revised language:</p> <p><b><u>(a) The penalty amount that shall be assessed against an MPN or the</u></b></p>	<p>Mark Sektan, President Association of California Insurance Companies (ACIC)</p>	<p>Reject in part: The commenter separates MPNs from MPN</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><b><u>MPN Applicant, if the violation relates to an activity within the MPN Applicants control, for each failure to comply with the Medical Provider Network requirements in Labor Code sections 4616 through 4616.7 and Title 8, California Code of Regulations, sections 9767.1 et seq., is as follows:</u></b></p> <p>Commenter opines that violations dealing with the make-up and maintenance of the MPN, e.g. access standards, penalties should be assessed against the MPN not the MPN Applicant. Commenter states that in most cases, the MPN applicant is not involved in the administration of the MPN. Commenter states that there are requirements that are solely the responsibility of the MPN Applicant, e.g. applicant’s eligibility status. Commenter states that these situations any penalty assessed should be against the MPN applicant as compliance rest with the MPN Applicant. Commenter states that numerous applicants access a single MPN so this clarification will also prevent an inadvertent multiplication of penalties relating to the same issue.</p>	<p>September 30, 2013 Written Comment</p>	<p>Applicants when they are essentially one in the same. The MPN is the entity approved by the DWC as a Medical Provider Network and the MPN Applicant is legally responsible for the MPN. In other words, the MPN Applicant is the entity that legally acts on behalf of the MPN. It appears the commenter is mistaking an MPN for the underlying network of physicians that may make up the MPN.</p> <p>Accept in part: The regulatory provisions will be amended to clarify the aggregate penalties potential violation in which multiple changes are needed.</p>	<p>§9767.19(a) will be revised to add, “For MPN applicants who have multiple MPNs and for multiple MPNs using the same network, if a specific violation affects more than one MPN, multiple penalties will not be assessed against the MPN applicant(s) provided that the violation is remedied for all affected MPNs within a reasonable time period, as determined by the Administrative Director based on the nature and extent of the violation.”</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.19(a)	<p>Commenter states that throughout this subsection that many references are made to the definition of an “occurrence” within a penalty imposition context. Commenter opines that many every day, commonplace data anomalies (such as an outdated provider address) could create errors that may give rise to penalties under these sections under the current definition of “occurrence”.</p> <p>Commenter states that these anomalies often “cascade” – that is, a single underlying anomaly may occur in potentially hundreds of different MPN listings and/or documents, potentially giving rise to “cascading administrative penalties” (<i>i.e.</i>, multiple disproportionate penalties assessed stemming from a single incorrect entry). Commenter opines that MPN’s should have the ability to correct simple data anomalies within a reasonable timeframe of notice of said deficiencies without imposition of a penalty, and furthermore, an MPN should not be penalized multiple times for a single underlying data anomaly.</p> <p>Commenter requests that these penalty provisions be modified to (1) clarify</p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers’ Compensation Services September 30, 2013 Written Comment</p>	<p>Accept in part: The regulatory provisions will be amended to clarify the aggregate penalties potential for occurrences that cascade in which multiple changes are needed.</p> <p>Reject: (See above response for #1). (2) The MPN is</p>	<p>§9767.19(a) will be revised to add, “For MPN applicants who have multiple MPNs and for multiple MPNs using the same network, if a specific violation affects more than one MPN, multiple penalties will not be assessed against the MPN applicant(s) provided that the violation is remedied for all MPNs within a reasonable time period, as determined by the Administrative Director based on the nature and extent of the violation.”</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>that the definition of “occurrence” is anticipated to include any and all instances of a single data anomaly as one “occurrence”, no matter how many times it may appear redundantly, and (2) an MPN should be afforded a reasonable, 30-day opportunity to correct everyday data errors without imposition of an administrative fine if the MPN has made reasonable efforts to comply and correct the error.</p> <p>Commenter opines that in order to help trace the underlying network source of a data anomaly that gives rise to a penalty, the DWC should consider modifying of Section 9767.3, Application for Medical Provider Network, Sections (c) (2) (3) to include a 7th column of the provider and ancillary listings indicating the network source of the provider/ancillary in the provider data file.</p>		<p>afforded a quarterly schedule to update their website provider listings and if there is a reported inaccuracy, the MPN will have 45 days to correct any reported inaccuracies in their provider listing. If provider listing inaccuracies are found during a Random Review, DWC will consider “reasonable efforts to comply and correct the error” as a mitigating factor.</p> <p>Reject: DWC has the authority to access penalties against an MPN Applicant who is responsible for the MPN and any network source used to maintain its provider listings.</p>	None.
9767.19(a)(1)	<p>Commenter recommends the following revised language:</p> <p>(a) Notwithstanding Labor Code section 129.5(c)(1) through (c)(3), the penalty amount that shall be assessed</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The MPN regulatory provisions apply to MPN Applicants and their actions as it relates to the administration of MPNs.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>for each failure to comply with the Medical Provider Network process required by Labor Code section 4616 through 4616.7 and sections 9767.1 et seq. of Title 8 of the California Code of Regulations is as follows:</p> <p>(1) MPN filing by Applicant requirements with DWC:</p>			
9767.19(a)(1)(A)	<p>Commenter recommends the following revised language:</p> <p>(A) Failure to file an original Notice of MPN Plan Modification within thirty (30) business days of a change in the name of the MPN or the MPN applicant, \$2,500.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The requirement to file a Notice of MPN Plan Modification within 15 days of a change in the name of the MPN or the MPN Applicant and a fine of \$500 initially and for each seven calendar days thereafter if the failure continues, up to \$5,000 is sufficient.</p>	None.
9767.19(a)(1)(A)	<p>Commenter recommends the following revised language:</p> <p>(a)(3)(A) Failure to perform at least quarterly updates to <b>confirm the accuracy</b> of the <b>medical physician</b> and ancillary provider listings, for each <b>inaccurate entry</b> failure to update quarterly, \$250, up to a total of \$10,000 per quarter.</p> <p>Commenter notes that this penalty</p>	<p>Jeremy Merz California Chamber of Commerce</p> <p>Jason Schmelzer California Coalition on Workers' Compensation September 30, 2013 Written Comment</p>	<p>Accept: This regulatory provision will be renumbered and revised.</p>	<p>§9767.19(a)(3)(A) will be renumbered to §9767.19(a)(2)(A) will be revised to, "Failure to perform the required quarterly provider listing updated pursuant to section</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>section requires employers and insurers to confirm quarterly that each provider is accurately listed within an MPN. There can be tens of thousands of medical and ancillary providers within an MPN. Commenter opines that receiving confirmation from each provider every three months is operationally impractical. Providers will be inundated with confirmation requests coming from potentially hundreds of MPNs. Employers and insurers will be at the mercy of the providers – if the providers fail to timely respond, employers will face costly monetary penalties. Commenter notes that as the regulation is written now, having 40 inaccurate listings will result in the maximum \$10,000 quarterly penalty. With thousands of providers in an MPN, employers and insurers could face the maximum penalty for having less than a 1% inaccuracy rate.</p> <p>Commenter opines that a more reasoned and practical approach is to base penalties on failure to update MPNs quarterly.</p>			9767.12(a)(2)(C), for each inaccurate entry, \$250, up to a total of \$10,000 per quarter.”
9767.19(a)(1)(A) – (a)(1)(G)	Commenter notes that subsections (a)(1)(A) through (E) list sets of	Jose Ruiz, Director Corporate Claims	Reject: The violations are not the same. Although all relate	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>penalties for the same violation – improper filing of MPN plan modification. Commenter states that there is little distinction between the different violations, which will likely result in multiplication of penalties for essentially one violation. Commenter opines that this is overly punitive and unnecessary. Commenter opines the penalties proposed in subsections (a)(1)(F) and (G) – which refer to improper filing of MPN plan reapproval and geocoding of provider listing are also unreasonable.</p> <p>Commenter opines that the proposed MPN regulations should be drafted to create just one (1) set of penalties consisting of two (2) classes of violations: material and non-material failure to file an MPN plan modification.</p>	<p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>to administrative violations, they are distinct and separate. These penalties relate to a MPN’s eligibility status, the ability to contact and communicate with the MPN and information being sent to injured workers’ about the MPN. All are serious and material violations that address an MPN’s ability to function.</p>	
9767.19(a)(1)(A) through (E)	<p>Commenter notes that this penalty section creates five sets of penalties for the same act – improper filing of an MPN plan modification. Commenter opines that there is little operative distinction between the different violations, and this will likely lead to a piling-on of penalties on employers and insurers for</p>	<p>Jeremy Merz California Chamber of Commerce</p> <p>Jason Schmelzer California Coalition on Workers’ Compensation September 30, 2013</p>	<p>Reject: The violations are not the same. Although all relate to administrative violations, they are distinct and separate. These penalties relate to a MPN’s eligibility status, the ability to contact and communicate with the MPN and information being sent to</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	essentially one violation. Commenter opines that this is overly punitive and unnecessary. Commenter states that the regulations should be drafted to create one set of penalties containing two classes of violations: material and nonmaterial failure to file an MPN plan modification.	Written Comment Oral Comment	injured workers' about the MPN. All are serious and material violations that address an MPN's ability to function.	
9767.19(a)(1)(B)	<p>Commenter recommends the following revised language:</p> <p>(B) Failure to file an original Notice of MPN Plan Modification within thirty (30) business days of a change in the MPN applicant's eligibility status, \$5,000.</p>	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment	Reject in part: Although §9767.19(a)(1)(B) will be revised to allow for more time from 5 business days to 15 business days.	§9767.19(a)(1)(A) is revised, "Failure to file a Notice of MPN Plan Modification within fifteen (15) business days of a change in the MPN applicant's eligibility status, \$2,500."
9767.19(a)(1)(B)	<p>Commenter recommends the following revised language:</p> <p><b><u>(B) Failure to file an original Notice of MPN Plan Modification within fifteen five (15) business days of a change in the MPN applicant's eligibility status, \$2,500.</u></b></p> <p>Commenter states that he understands the importance of an Applicant's eligibility status but opines that 5 business days is an extremely aggressive standard. Commenter</p>	Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment	Accept: §9767.19(a)(1)(B) will be revised to allow for more time from 5 business days to 15 business days	§9767.19(a)(1)(A) is revised, "Failure to file a Notice of MPN Plan Modification within fifteen (15) business days of a change in the MPN applicant's eligibility status, \$2,500."

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	opines that this does not provide sufficient time to notify third party administrators or an Entity that provides physician network services. Commenter states that these entities then need to send the information to the DWC. Commenter opines that changing the timeframe to 15 business days is more reasonable.			
9767.19(a)(1)(B)	<p>Commenter recommends the following revised language:</p> <p>Failure to file an original Notice of MPN Plan Modification within five (5) <u>fifteen (15)</u> business days of a change in the MPN applicant's eligibility status, \$2,500.</p> <p>Please refer to her comment on section 9767.8(a)(2).</p>	Brenda Ramirez Claims & Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments	Accept: §9767.19(a)(1)(B) will be revised to allow for more time from 5 business days to 15 business days	§9767.19(a)(1)(A) is revised, "Failure to file a Notice of MPN Plan Modification within fifteen (15) business days of a change in the MPN applicant's eligibility status, \$2,500."
9767.19(a)(1)(C)	<p>Commenter recommends the following revised language:</p> <p>(C) Failure to file an original Notice of MPN Plan Modification within thirty (30) business days of a change in DWC liaison or authorized individual, \$2,500.</p>	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment	Reject: The regulatory provision as stated is sufficient. However, the phrase "an original" is deleted not as a result of this comment but to account for electronic submissions.	None.
9767.19(a)(1)(D)	Commenter recommends the following revised language:	Bob Mortensen Anthem Insurance August 19, 2013	Reject: The regulatory provision as stated is sufficient. However, the	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	(D) Failure to file prior to implementing any changes requiring a original Notice of MPN Plan Modification for a material change and approval by the DWC of any of the employee notification materials, including but not limited to a change in MPN contact information or a change in provider listing access or website information required by section 9767.12, \$5,000.	Written Comment	phrase “an original” is deleted to account for electronic submissions and the phrase “MPN medical access assistant” information is added for clarity. This comment did not prompt these changes.	
9767.19(a)(1)(E)	<p>Commenter recommends the following revised language:</p> <p>(E) Failure to file prior to implementing any changes requiring an original Notice of MPN Plan Modification for all other material changes and approval by the DWC prior to implementing that require the filing of a Modification of MPN plan as set forth in §9767.8, \$1,000.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The regulatory provision as stated is sufficient. However, the phrase “an original” is deleted not as a result of this comment but to account for electronic submissions.</p>	None.
9767.19(a)(1)(G)	<p>Commenter recommends the following revised language:</p> <p>(G) Failure to include geocoding of its current provider listing with the MPN reapproval application, \$1,000 and the application will be rejected as incomplete.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The suggested language is unnecessary in the penalties section of these regulations because it is covered in §9767.3.</p>	None.
9767.1(a)(12)	Commenter recommends the	Anita Weir, RN	Reject: Disagree with	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>following revised language:</p> <p>“Health care shortage” means a situation in either a rural or non-rural area in which there is an insufficient number and type of physicians <del>in a particular specialty</del> to meet the Medical Provider Network access standards set forth in 9767.5(a) through (c) to ensure medical treatment is available and accessible at reasonable times. An insufficient number of physicians is not established when there are <u>more than the minimum number of quality, non-MPN physicians in that specialty of that type in the area who are available and willing to treat injured employees in accordance with California workers’ compensation laws</u> within the access standards.</p> <p>Commenter opines that non-MPN physicians must be willing to treat injured workers AND meet the quality standards of the MPN such as being Board Certified, not having significant malpractice suits, able to meet the reporting requirements of the Labor Code and so on. Commenter notes that quality review has been added to the</p>	<p>CRRN Director, Medical &amp; Disability Management Safeway, Inc. September 30, 2013 Written Comment</p>	<p>commenter’s definition of “type” of physician. As mentioned in above response, Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.” In addition, a minimum of three physicians in each specialty are needed to fulfill access standards because of Labor Code §4616.3 requirements that specifically describes an injured worker’s right to seek a second and third opinion from physician’s in the MPN.</p> <p>Agree in part: The regulatory text will be clarified so that only physicians in a particular specialty who are available and willing to treat injured workers will be counted when determining if there is a health care shortage.</p> <p>Reject: The commenter’s</p>	<p>§9767.1(a)(12) is revised to state “A lack of physicians participating in an MPN does not constitute a health care shortage where a sufficient number of physicians in that specialty are available within the access standards and willing to treat injured workers under the California workers’ compensation system.”</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>MPN regulation and should not be in conflict with trying to meet access quotas in areas where medical care is limited. Commenter does not want to include poor quality providers in the MPN just to meet these quotas; their employees rely on their network to represent the <b>best</b> providers not just the closest ones.</p> <p>Commenter opines that the use of “specialty” is not consistent with Section 3209.3 and will be confusing as to validity of access.</p>		<p>recommendation to include “AND meet the quality standards of the MPN” is unnecessary because the word “available” is sufficient.</p>	
9767.19(a)(2)(A)	<p>Commenter recommends the following revised language:</p> <p>(A) Failure to provide the written MPN employee notification pursuant to section 9767.12(a) to an injured covered employee, \$2,500; per occurrence.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Accept. The unnecessary comma will be deleted.</p>	<p>The unnecessary comma is deleted.</p>
9767.19(a)(2)(A) and (B)	<p>Commenter recommends deleting subsection (A) and retaining subsection (B).</p> <p>Commenter states that both penalties relate to violations of 9767.12 and could lead to double penalties since a penalty may be imposed for failing to provide notice under subsection (a)</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: Although both penalties relate to a violation of §9767.12 they are not the same. One is the failure to file an employee notification and the other is the failure to file a complete or correct employee notification.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>and a penalty could be imposed for any subsection of 9767.12. Commenter recommends removing subsection A and retaining the broader penalty application set forth under subsection B.</p> <p>Commenter states that if the penalty under original Subsection A is not removed, he recommends placing a cap on penalties as was done under original Subsection B.</p>			
9767.19(a)(3)(A)	<p>Commenter recommends the following revised language:</p> <p>(3) MPN Network access requirements:</p> <p>(A) Failure to update the medical and ancillary provider listings on a quarterly basis will result in a \$1,000 penalty. There will be a \$1,000 penalty for each incorrect provider listing which resulted in an injured worker's inability to access care, up to a maximum of \$25,000 annually. The maximum penalty annually applies per network service entity regardless of how many MPN applicants and their participants are filed using the network service entity.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject in part. Agree in part: The penalty amounts of \$250 for each inaccurate entry up to a total of \$10,000 per quarter is sufficient. Accept that "to confirm the accuracy of the medical and ancillary provider listings" on a quarterly basis is overly burdensome and will be deleted.</p>	<p>§9767.12(a)(2)(C) will be revised to delete the phrase "and for confirming the accuracy of" an MPN's provider listings.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter states that provider data is fluid and providers themselves have expressed concern regarding continuous contact and creating a negative impact on an injured worker's access to treatment and not if there has been a best faith effort on the part of the network to obtain optimal information.</p>			
9767.19(a)(3)(A)	<p>Commenter recommends the following revised language:</p> <p>Failure to perform at least quarterly updates <del>to confirm the accuracy</del> of the <del>medical physician</del> and ancillary provider listings, for each <del>inaccurate entry</del> <u>failure to update at least quarterly</u>, \$250, up to a total of \$10,000 per quarter.</p> <p>Commenter states that this penalty applies when the medical and ancillary provider listings are not updated on a quarterly basis. Commenter opines that an inaccurate listing may be the result of something other than timely updates.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Agree: The phrase "to confirm the accuracy of the medical and ancillary provider listings" on a quarterly basis is overly burdensome and will be deleted.</p>	<p>§9767.12(a)(2)(C) will be revised to delete the phrase "and for confirming the accuracy of" an MPN's provider listings.</p>
9767.19(a)(3)(A)	<p>Commenter recommends the following revised language:</p>	<p>Anita Weir, RN CRRN Director, Medical &amp;</p>	<p>Agree: The phrase "to confirm the accuracy of the medical and ancillary provider</p>	<p>§9767.12(a)(2)(C) will be revised to delete the phrase</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Failure to perform at least quarterly updates <u>to the network URL</u> <del>to confirm the accuracy of the medical and ancillary provider listings, for each inaccurate entry,</del> \$250, up to a total of \$10,000 per quarter.</p> <p>Commenter states that network administrators can update quarterly the information they have for the providers in network and confirm changes provided by providers, employers and employees but there is no reasonable methodology to guarantee the accuracy of every record in a network on any given day. Commenter opines that providers would be hounded by hundreds of phone calls daily IF networks were to try to confirm each provider still had same info from quarter to quarter. Commenter questions how the DWC would assess this during an audit to identify inaccurate information and if it was inaccurate at the time of data update vs the date of the audit.</p>	<p>Disability Management Safeway, Inc. September 30, 2013 Written Comment</p>	<p>listings” on a quarterly basis is overly burdensome and will be deleted.</p>	<p>“and for confirming the accuracy of” an MPN’s provider listings.</p>
<p>9767.19(a)(3)(A) – (a)(3)(B)</p>	<p>Commenter notes that these subsections require employers and insurers to confirm quarterly that each provider is accurately listed in the MPN provider listing. Commenter</p>	<p>Jose Ruiz, Director Corporate Claims  Rick J. Martinez Medical Networks</p>	<p>Agree: The phrase “to confirm the accuracy of the medical and ancillary provider listings” on a quarterly basis is overly burdensome and will be</p>	<p>§9767.12(a)(2)(C) will be revised to delete the phrase “and for confirming the accuracy of” an</p>

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>opines that this process is cost-prohibitive and operationally impractical. It requires considerable administration work, additional staffing, and modification of current procedures. Commenter states that it poses significant challenges to the MPN in maintaining completeness and accuracy of the provider listing.</p>	<p>Manager  Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>deleted.</p>	<p>MPN's provider listings.</p>
<p>9767.19(a)(3)(B)</p>	<p>Commenter recommends the following revised language:</p> <p>(B) Failure to meet the access standards for a specific location within the MPN geographic service area or areas described in its MPN plan \$5,000 for each geographic service area affected, up to a total of \$50,000. If the MPN applicant plan has a policy that allows treatment and follows the policy outside the MPN for all specialties including the 5 key identified specialties when access standards are not met or there is a healthcare shortage in a geographic service area, then the penalty would not apply.</p> <p>Commenter states that service area access compliance is always changing</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: Although recommendations made by the commenter will not be made to this subdivision, changes will be made to the Access Standards §9767.5 that clarify that there is no violation if the MPN allows the injured worker to treat outside the MPN when access standards are not met.</p>	<p>None to this section (See changes to §9767.5).</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	based on provider participation and type of service area. Penalty should not be applied if there is a policy that allows the injured worker to seek treatment outside the MPN and does not negatively impact their treatment.			
9767.19(a)(3)(B)	<p>Commenter recommends the following revised language:</p> <p>(B) Failure to update reported inaccuracies in the network provider listing within thirty (30) days of notice to the MPN through the contact method stated on the provider listings, \$500, up to a total of \$5,000, per month.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Accept. The unnecessary comma will be deleted.</p>	<p>The unnecessary comma is deleted.</p>
9767.19(a)(3)(B)	<p>Commenter recommends the following revised language:</p> <p>Failure to update reported inaccuracies in the network provider listing within <del>thirty (30)</del> <u>sixty (60)</u> days of notice to the MPN through the contact method stated on the provider listings, \$500, up to a total of \$5,000, per month.</p> <p>Commenter states that changing the database and then exporting that database to outside lookup vendors cannot be turned around even for her small network of 4500 in less than 45</p>	<p>Anita Weir, RN CRRN Director, Medical &amp; Disability <b>Management</b> Safeway, Inc. September 30, 2013 Written Comment</p>	<p>Reject. Recognizing that a 30-day timeframe may be short in light of various concerns raised, the time frame will be increased to allow additional time to validate the information and complete the update.</p>	<p>§9767.19(a)(3)(B) is renumbered to 9767.19(2)(B) and is revised so that the time frame to remove reported inaccuracies will be changed from 30 days to 45 days.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>days. Commenter states that large providers are not always timely or accurate with their data files which require her organization to review and correct errors before they can export to their vendor and allow them to have time to upload the data and correct any format errors they missed.</p> <p>Commenter would like clarification of “reported inaccuracies”. Commenter asks if these reports are via the complaint process. Commenter notes that her employees and examiners also report changes they find which would not be tracked for the DWC to measure against.</p>			
9767.19(a)(3)(C)	<p>Commenter recommends the following revised language:</p> <p>(a)(3)(C) Failure to meet the access standards, <b><u>if treatment was not allowed outside of the MPN,</u></b> including approved alternative access standards or approved out-of-network treatment, for a specific location within the MPN geographic service area or areas described in its MPN plan \$5,000 for each geographic service area affected, up to a total of</p>	<p>Jeremy Merz California Chamber of Commerce</p> <p>Jason Schmelzer California Coalition on Workers’ Compensation September 30, 2013 Written Comment</p>	<p>Reject in part. Accept in part: This subdivision is revised to clarify no penalty will be assessed unless there is a failure to meet access standards as set forth in the revised §9767.5.</p>	<p>§9767.19(a)(3)(C) is renumbered to §9767.19(a)(2)(C) and is revised to state “Failure to meet access standards as required by sections 9767.5(a) through (C), \$1,000 per failure.”</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>\$50,000.</p> <p>Commenter opines that penalties are not needed when treatment is permitted outside of the MPN. Many areas of the state have a dearth of specialists. Commenter states that as long as an MPN permits an injured worker to go outside of the network in these scenarios, penalties are unwarranted.</p>			
9767.19(a)(3)(C)	<p>Commenter recommends the following revised language:</p> <p>“(C) Failure to meet the access standards, including approved alternative access standards or approved out-of-network treatment, for a specific location within the MPN geographic service area or areas described in its MPN plan, <u>except where the MPN has a policy which allows a covered employee to select a primary treating physician or treating physician outside the MPN for the geographic service area or areas described in the MPN plan</u> \$5,000 for each geographic service area affected, up to a total of \$50,000.”</p> <p>Commenter recommends amending</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>Reject in part. Accept in part: This subdivision is revised to clarify no penalty will be assessed unless there is a failure to meet access standards as set forth in the revised §9767.5</p>	<p>§9767.19(a)(3)(C) is renumbered to §9767.19(a)(2)(C) and is revised to state “Failure to meet access standards as required by sections 9767.5(a) through (C), \$1,000 per failure.”</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	the language to be consistent with its proposed amendment to section 9767.12(a)(2).			
9767.19(a)(3)(C)	<p>Commenter recommends the following revised language:</p> <p>(a)(3)(C) Failure to meet the access standards <u>if treatment was not allowed outside the MPN</u>, including approved alternative access standards or approved out-of-network treatment, for a specific location within the MPN geographic service area or areas described in its MPN plan \$5,000 for each geographic service area affected, up to a total of \$50,000.</p> <p>Please refer to her comments under section 9767.5.</p> <p>Commenter opines that no access standard penalty should apply if treatment is allowed outside the MPN when the standard is unmet.</p>	Brenda Ramirez Claims & Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments	Reject in part. Accept in part: This subdivision is revised to clarify no penalty will be assessed unless there is a failure to meet access standards as set forth in the revised §9767.5	§9767.19(a)(3)(C) is renumbered to §9767.19(a)(2)(C) and is revised to state "Failure to meet access standards as required by sections 9767.5(a) through (C), \$1,000 per failure."
9767.19(a)(3)(C)	<p>Commenter recommends the following revised language:</p> <p>Failure to meet the access standards, including approved alternative access standards or approved out-of-network treatment, for a specific location</p>	Anita Weir, RN CRRN Director, Medical & Disability Management Safeway, Inc. September 30, 2013	Reject: The access standard provisions of §9767.5 will be revised. Access standards are violated if an MPN fails to	§9767.19(a)(3)(C) is renumbered to §9767.19(a)(2)(C) and is revised to state

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>within the MPN geographic service area or areas described in its MPN plan <u>and over a constant four (4) month period as documented by formal complaints and written advice to the network</u> \$5,000 for each geographic service area affected, up to a total of \$50,000.</p> <p>Commenter opines that the access standards as proposed are arbitrary and not acceptable in providing different injured employees access to treatment. Commenter opines that a set of providers for every location does not guarantee quality or broad specialty access.</p> <p>Commenter opines that on any given day the physicians in a “specific location” may not all be willing to see new patients, determine to leave the network, move the office and so forth. Commenter states that it will require the network time to replace physicians or wait to update location information or for the provider to return from vacation. Commenter opines that without some defined period of time and repeated lack of coverage during that time this regulation will guarantee</p>	Written Comment	<p>meet the requirements of section 9767.5(a) through (C) and it is not necessary to show a violation over a four month period or documented by formal complaints and written advice to the networks.</p> <p>Reject: The access standard provisions of §9767.5 will be revised. Access standards are violated if an MPN fails to meet the requirements of section 9767.5(a) through (C). There is no violation if access standards are not met but the MPN allows an injured employee to obtain necessary treatment from an appropriate specialist outside of the MPN within a reasonable geographic</p>	<p>“Failure to meet access standards as required by sections 9767.5(a) through (C), \$1,000 per failure.”</p> <p>§9767.19(a)(3)(C) is renumbered to §9767.19(a)(2)(C) and is revised to state “Failure to meet access standards as required by sections 9767.5(a) through (C), \$1,000 per failure.”</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>that every MPN will be in violation multiple times per year.</p> <p>Commenter requests that the Division define how the audit unit would assess this failure to meet the standards? Commenter opines that a one-time call to a provider only shows what is happening at that moment AND depends largely on how the communication is handled. Commenter opines that by using the formal complaint process as the basis for this assessment at least there would be documented concerns and timeline to determine if the MPN administrator had resolved or attempted to resolve the access issues. Commenter opines that resolution might require submitting for re-approval asking for alternate access standards for that area.</p>		<p>area.</p> <p>Reject: The access standard provisions of §9767.5 will be revised. An MPN must have three available physicians of each specialty to treat common injuries, if not, then the MPN shall have a written policy permitting the covered employee to obtain necessary treatment for that injury from an appropriate specialists outside the MPN within a geographic service area.</p>	<p>§9767.19(a)(3)(C) is renumbered to §9767.19(a)(2)(C) and is revised to state “Failure to meet access standards as required by sections 9767.5(a) through (C), \$1,000 per failure.”</p>
9767.19(a)(3)(D)	<p>Commenter recommends the following revised language:</p> <p>Failure to respond to calls made to the MPN medical access assistant by the next day, excluding Sunday and holidays, <u>as documented in the claims notes</u>, \$250 for each occurrence and \$50 for each additional day a response</p>	<p>Anita Weir, RN CRRN Director, Medical &amp; Disability Management Safeway, Inc. September 30, 2013 Written Comment</p>	<p>Reject: MPN medical access assistants are required to maintain telephone call logs.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>is not provided, up to a total of \$1,000 per occurrence.</p> <p>Commenter would like the division to explain how this would be tracked and audited. Commenter opines that this is a “he said, she said” stand-off especially when the result could mean being allowed to opt out of the MPN based on “attempting” to contact the employee who may not want to be contacted.</p>			
9767.19(a)(3)(E)	<p>Commenter recommends the following revised language:</p> <p>(a)(3)(E) Failure to ensure an appointment for non-emergency services for an initial treatment is available <i>to the extent feasible</i> within 3 business days of the MPN applicant’s receipt of a request for treatment within the MPN, \$500 for each occurrence.</p> <p>Commenter states that LC section 4616(a)(2) specifies that medical treatment for injuries must be readily available at reasonable times and accessible <i>to the extent feasible</i>. Commenter opines that circumstances sometimes arise that make a non-</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: The access standard provisions of §9767.5 will be revised. An MPN is responsible for ensuring an appointment for an initial treatment is available within 3 business days. However, these regulations have been revised so that an MPN’s responsibilities are only triggered if requests for an appointment are made to an MPN medical access assistant.</p>	<p>§9767.19(a)(3)(E) is renumbered to §9767.19(a)(2)(E) and is revised to state “Failure of an MPN medical access assistant to ensure an appointment for non-emergency services for initial MPN treatment is available within 3 business days of a covered employee’s request for treatment pursuant to section</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	emergency initial appointment within 3 business days infeasible.			9767.5(f), \$500 for each occurrence.”
9767.19(b)	<p>Commenter recommends extending the response time from ten to 20 days.</p> <p>Commenter notes that this subsection provides that the Administrative Director shall allow the MPN an opportunity to correct the violation or to respond within 10 days. Paragraph (c) provides that the MPN may request a re-evaluation of the administrative penalty within 20 days of the issuance of the Notice of Action. Commenter opines that the MPN should have 20 days, plus five days for mailing, to respond.</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	Reject: The ten day response time is sufficient and consistent with current regulations.	None.
9767.19(b)	<p>Commenter recommends deletion of the term “applicant” and insertion of the term “contact” where it appears throughout this subsection.</p> <p>Commenter notes that in some cases, the MPN Applicant is simply accessing an established MPN and does not have administrative function over the MPN. Commenter opines that issuing the notice to the MPN Contact would provide a more direct and timely means of communication with the MPN which is important due</p>	<p>Kathleen Bissell Liberty Mutual Insurance Company September 30, 2013 Written Comment</p>	Reject: The commenter separates MPNs from MPN Applicants when they are essentially one in the same. The MPN is the entity approved by the DWC as a Medical Provider Network and the MPN Applicant is legally responsible for the MPN. In other words, the MPN Applicant is the entity that legally acts on behalf of the MPN. It appears the commenter is mistaking an	None.

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	to the response timeframes noted.		MPN for the underlying network of physicians that may make up the MPN.	
9767.19(b), (c) ,(d) and (g)	<p>Commenter recommends replacing the term “applicant” with the term “contact” wherever it appears in these subsections.</p> <p>Commenter states that in some cases the MPN Applicant is simply accessing an established MPN and does not have administrative function of the MPN. Commenter opines that issuing the notice to the MPN contact would provide a more direct and timely means of communication which is important due to the response timeframes noted.</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: The commenter separates MPNs from MPN Applicants when they are essentially one in the same. The MPN is the entity approved by the DWC as a Medical Provider Network and the MPN Applicant is legally responsible for the MPN. In other words, the MPN Applicant is the entity that legally acts on behalf of the MPN. It appears the commenter is mistaking an MPN for the underlying network of physicians that may make up the MPN.</p>	None.
9767.19(c)	<p>Commenter recommends deletion of the term “applicant” and insertion of the term “contact” in this subsection.</p> <p>Commenter notes that in some cases, the MPN Applicant is simply accessing an established MPN and does not have administrative function over the MPN. Commenter opines</p>	<p>Kathleen Bissell Liberty Mutual Insurance Company September 30, 2013 Written Comment</p>	<p>Reject: The commenter separates MPNs from MPN Applicants when they are essentially one in the same. The MPN is the entity approved by the DWC as a Medical Provider Network and the MPN Applicant is legally responsible for the MPN. In</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	that issuing the notice to the MPN Contact would provide a more direct and timely means of communication with the MPN which is important due to the response timeframes noted.		other words, the MPN Applicant is the entity that legally acts on behalf of the MPN. It appears the commenter is mistaking an MPN for the underlying network of physicians that may make up the MPN.	
9767.19(d)	<p>Commenter recommends deletion of the term “applicant” and insertion of the term “contact” in this subsection.</p> <p>Commenter notes that in some cases, the MPN Applicant is simply accessing an established MPN and does not have administrative function over the MPN. Commenter opines that issuing the notice to the MPN Contact would provide a more direct and timely means of communication with the MPN which is important due to the response timeframes noted.</p>	Kathleen Bissell Liberty Mutual Insurance Company September 30, 2013 Written Comment	Reject: The commenter separates MPNs from MPN Applicants when they are essentially one in the same. The MPN is the entity approved by the DWC as a Medical Provider Network and the MPN Applicant is legally responsible for the MPN. In other words, the MPN Applicant is the entity that legally acts on behalf of the MPN. It appears the commenter is mistaking an MPN for the underlying network of physicians that may make up the MPN.	None.
9767.19(g)	Commenter recommends deletion of the term “applicant” and insertion of the term “contact” in this subsection.	Kathleen Bissell Liberty Mutual Insurance Company September 30, 2013	Reject: The commenter separates MPNs from MPN Applicants when they are essentially one in the same.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter notes that in some cases, the MPN Applicant is simply accessing an established MPN and does not have administrative function over the MPN. Commenter opines that issuing the notice to the MPN Contact would provide a more direct and timely means of communication with the MPN which is important due to the response timeframes noted.</p>	<p>Written Comment</p>	<p>The MPN is the entity approved by the DWC as a Medical Provider Network and the MPN Applicant is legally responsible for the MPN. In other words, the MPN Applicant is the entity that legally acts on behalf of the MPN. It appears the commenter is mistaking an MPN for the underlying network of physicians that may make up the MPN.</p>	
<p>9767.2(e)</p>	<p>Commenter recommends adding the word “the” before “DWC” in this subsection.</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: Unnecessary.</p>	<p>None.</p>
<p>9767.2(f)</p>	<p>Commenter recommends replacing the term “wish” with the term “expect.”</p> <p>Commenter opines that while an applicant may wish to use the MPN in the future, it may not expect to do so. Commenter opines that “expect” is more accurate in this context and less subjective.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Accept in part. Reject in part. The word “wish” will be deleted but will not be replaced with the word “expect”.</p>	<p>§9767.2(f) is re-lettered to (g) and the phrase “does not wish to” is deleted.</p>
<p>9767.3 – General</p>	<p>Commenter has a general concern</p>	<p>Lishaun Francis</p>	<p>Reject: SB 863 introduced the</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
Comment	<p>regarding the implementation of physician in network services. Commenter notes that the designation is referenced in multiple changes throughout these regulations and she is concerned that this could possibly place physicians in the position of having their names and rates sold or leased multiple times making it difficult for them to maintain their practices. Commenter opines that this selling to additional networks can lead to a network being approved once based upon a set number of employees and then becoming overextended as it is sold and leased multiple times.</p> <p>Commenter recommends that these regulations be amended to allow only the Division of Workers' Compensation to approve physician in network services up to a certain number of covered employees. Then if the network is sold or leased enough times to go through that cap, the network provider should have to recertify the adequacy of their network. Commenter opines that this amendment would ensure better access for injured workers.</p>	California Medical Association September 30, 2013 Oral Comment	new MPN Applicant called "an entity that provides physician network services. In addition, SB 863 and as set forth in these regulations in §9767.3(T) requires that every contracting agent that sells, leases, assigns, transfers or conveys its medical provider networks and their contracted reimbursement rates to an insurer, employer or entity that provides physicians network services, or another contracting agent shall, upon entering or renewing a provider contract, disclose to the provider whether the medical provider network may be sold, lease, transferred, or conveyed to other insurers, employers, entities providing physician network services, or contracting agents including workers' compensation insurers.	
9767.3(a)	Commenter recommends replacing the	Brenda Ramirez	Reject: Pursuant to the Labor	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>phrase “an employer or insurer” with the phrase “a claims administrator.”</p> <p>Please see her comments regarding 9767.1(19) and (35).</p> <p>Commenter opines that the recommended language will allow a TPA to submit an application for one or more MPNs that can be used by its clients. Commenter state that this will eliminate unnecessary duplicate filings.</p>	<p>Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Code and employer, or insurer or entity that provides physician network services are eligible to file an MPN application. Revision to the regulatory text will include “third party administrators,” as an example of an entity that may qualify as an “entity that provides physician network services.”</p>	
9767.3(a)	<p>Commenter questions if the statement in this subsection “entity that provides physician and network services’ would be restricted in its application to include only those providers which it has directly contracted, or whether a third party administrator could file an application that also includes direct contacts held between the third party administrator and the insurer, in addition to its directly-contracted providers.</p> <p>Commenter states that section 9767.3(d)(8)(I) does reference ancillary providers and indicates that an “...MPN applicant is confirming that a contractual agreement exists</p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers’ Compensation Services September 30, 2013 Written Comment</p>	<p>Reject: Third party administrators could file an application that also includes direct contracts held between the third party and administrator, in addition to its directly-contracted providers. The clarification does not belong in this section but rather in §9767.1 where it will be made.</p> <p>Reject: Unnecessary, because in the attempt to clarify, it confuses the existing regulatory text.</p>	<p>§9767.1(a)(1) will be revised to include “third party administrators.”</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>with the ancillary service providers to provide services to be used under the MPN.” Commenter opines that no specificity is given as to whether an indirectly-contracted relationship would meet these standards when an “entity that provides physician and network services” is serving as the MPN applicant.</p> <p>Commenter recommends expanding the language of section 9767.3 to include the following clarifying language: “...nothing in this section precludes an employer or insurer <u>or entity that provides physician network services</u> from submitting for approval one or more medical provider network plans in its application, <b><u>comprised of directly and/or indirectly-contracted medical and/or ancillary providers.</u></b>”</p>		Reject: Unnecessary, because in the attempt to clarify, it confuses the existing regulatory text.	None.
9767.3(a) and (b)	Commenter recommends replacing the term “physician” with the term “healthcare” prior to network services.	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment	Reject: The Labor specifically uses the term “entity that provides physician network services” to describe an eligible MPN Applicant.	None.
9767.3(c)	Commenter recommends adding a new subsection (c) and renumbering the following sections (c), (d), (e), (f), (g) and (h) in ordering to	Mark Sektnan, President Association of California Insurance	Reject: If an “entity that provides physician network services” files and is approved as an MPN, then it will be able	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>accommodate the following language:</p> <p>(c) Nothing in this section precludes an MPN Applicant from submitting an MPN application for the benefit and use of multiple insurers and self-insured employers. If an MPN is accessed by an entity other than the MPN Applicant, the MPN application shall include a list of all entities pursuant to Section 9767.3 (d) (7).</p> <p>Commenter opines that allowing an MPN applicant to file a single MPN application which can be accessed by multiple entities will streamline the MPN application, reapproval and modification process by significantly decreasing the number of duplicative applications required to be filed in the current process. Commenter states that it will also improve the administrative function for the DWC by lessening the number of applications to be reviewed, logged, and tracked and will cut down the time involved in responding to public information requests.</p>	<p>Companies (ACIC) September 30, 2013 Written Comment</p>	<p>to cover multiple employer or insurer clients.</p>	
9767.3(c)	<p>Commenter requests clarification on what constitutes a “valid electronic signature.”</p>	<p>Jose Ruiz, Director Corporate Claims</p>	<p>Accept: Revisions will be made to clarify what constitutes a “valid electronic</p>	<p>§9767.3(c) is revised to, “Electronic signatures in</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter notes that the paragraph proposes that “valid electronic signatures are accepted” when submitting the Cover Page for Medical Network Application or Application for Reapproval. Commenter opines that the term “valid electronic signatures” is vague.</p>	<p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	signature.”	compliance with California Government Code section 16.5 are accepted.”
9767.3(c)	<p>Commenter recommends the following revised language:</p> <p>c) Nothing in this section precludes an MPN Applicant from submitting an MPN application for the benefit and use of multiple insurers and self-insured employers. If an MPN is accessed by an entity other than the MPN Applicant, the MPN application shall include a list of all entities pursuant to Section 9767.3 (d) (7).</p> <p>Commenter suggests adding this new subsection to allow an MPN applicant to file a single MPN application which can be accessed by multiple entities. Commenter opines that this will streamline the MPN application, re-</p>	<p>Kathleen Bissell Liberty Mutual Insurance Company September 30, 2013 Written Comment</p>	Reject: If an “entity that provides physician network services” files and is approved as an MPN, then it will be able to cover multiple employer or insurer clients.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>approval and modification process by significantly decreasing the number of duplicative applications required to be filed in the current process.</p> <p>Commenter states that this would be a relief of administrative function for the DWC by lessening the number of applications to be reviewed, logged, and tracked.</p>			
9767.3(c)	<p>Commenter recommends the following revised language:</p> <p><u>(c) Nothing in this section precludes an MPN applicant from submitting an application for approval of an MPN for the benefit and use of multiple claims administrators. If an MPN is accessed by an entity other than the MPN Applicant, the MPN application shall include a list of those entities pursuant to Section 9767.3(d)(7).</u></p> <p>Commenter opines that the proposed language will clarify that an MPN applicant may submit an application for an MPN that can be accessed by multiple entities. Commenter states that this will eliminate unnecessary duplicate filings. Commenter opines that while it is necessary for entities</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: If an “entity that provides physician network services” files and is approved as an MPN, then it will be able to cover multiple employer or insurer clients.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>that create MPNs to file MPN applications for approval or re-approval of MPNs, it is not necessary for users of approved MPNs to also submit MPN applications.</p> <p>Commenter states that claims administrators are required to report information on MPN use and payments to WCIS and if the Division needs a separate reporting of users of approved MPNs, that information can best be tracked and reported to the Division by the MPN applicants.</p> <p>Commenter opines that if the Administrative Director accepts this recommendation and inserts this subsection, the subsequent subsections will need to be renumbered.</p>			
9767.3(c)(1)	<p>Commenter recommends the following revised language:</p> <p>An MPN applicant shall submit the MPN provider information and/or ancillary service provider information required in section 9767.3(d)(8)(C) and (D) on a computer disk(s), or CD ROM(s), <u>or a flash drive.</u></p> <p>Commenter states that this subsection describes the methods in which MPN</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation</p>	<p>Agree: The regulatory text will be revised to include the phrase “flash drive.”</p>	<p>§9767.3(c)(1) is revised to include the phrase “flash drive”.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	and/or ancillary service provider information shall be submitted, namely on a computer disk(s) or CD ROM(s). Subsection (c)(2) states that the network provider information shall be submitted on a disk(s), CD ROM(s), or a flash drive. We recommend adding the flash drive option to subsection (c)(1) to establish consistency.	Insurance Fund September 30, 2013 Written Comment		
9767.3(c)(2)	<p>Commenter recommends the following revised language:</p> <p><b><u>(d) (e)(2) If the network provider information is shall be submitted on a disk(s), or CD ROM(s), or a flash drive, and the provider file must shall have only the following three six columns. These columns shall be in the following order: (1) physician name (2) specialty and (3) physical address location (4) city (5) state (6) zip code of each physician listing. By submission of its provider listing, the Applicant MPN is affirming that all of the physicians listed have understand that the Medical Treatment Utilization Schedule (“MTUS”) is presumptively correct on the issue of the extent and scope of medical treatment and diagnostic</u></b></p>	Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment	Agree in part. Reject in part: The word “understand” will be deleted but it will be replaced with “have been informed”.	§9767.3(c)(2) is revised to delete the word “understand” and replace it with the phrase “have been informed.”

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><b><u>services and have a valid and current license number to practice in the State of California.</u></b></p> <p>Commenter opines that the requirement to have the MPN Applicant affirm the providers understanding of MTUS would require the MPN Applicant or the MPN to know the “operation of the provider’s mind” in order to comply with this requirement, which is impossible. Commenter states that the provider and/or the medical group should retain responsibility for compliance and understanding of MTUS. The requirement that the providers have a valid and current medical license should be sufficient. Commenter opines that it should be the MPN that affirms the license requirement not the Applicant. An MPN Applicant could be a self-insured employer who does not have direct relationship with the provider network.</p>		<p>Reject: The commenter separates MPNs from MPN Applicants when they are essentially one in the same. The MPN is the entity approved by the DWC as a Medical Provider Network and the MPN Applicant is legally responsible for the MPN. In other words, the MPN Applicant is the entity that legally acts on behalf of the MPN. It appears the commenter is mistaking an MPN for the underlying network of physicians that may make up the MPN.</p>	<p>None.</p>
9767.3(c)(2)	Commenter recommends the	Kathleen Bissell	Agree in part. Reject in part:	§9767.3(c)(2) is

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>following revised language:</p> <p>(c)(2) The network provider information shall be submitted on a disk(s), CD ROM(s), or a flash drive, and the provider file shall have only the following six columns. These columns shall be in the following order: (1) physician name (2) specialty (3) physical address (4) city (5) state (6) zip code of each physician listing. By submission of its provider listing, the applicant is affirming that all of the physicians listed <del>understand that the Medical Treatment Utilization Schedule (“MUTS”) is presumptively correct on the issue of extent and scope of medical treatment and diagnostic services and</del> have a valid and current license number to practice in the State of California.</p> <p>Commenter agrees that it is important that MPN physicians have a valid and current California license to practice. Commenter opines that because the MPN has no reasonable way of affirming that all MPN physicians listed understand that the MTUS is presumptively correct, this language should be removed in the final</p>	<p>Liberty Mutual Insurance Company September 30, 2013 Written Comment</p>	<p>The word “understand” will be deleted but it will be replaced with “have been informed”.</p>	<p>revised to delete the word “understand” and replace it with the phrase “have been informed.”</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	regulations and the provider/medical group should retain responsibility for compliance and understanding of the MTUS.			
9767.3(c)(2)	<p>Commenter recommends the following revised language:</p> <p>The network provider information shall be submitted on a disk(s), CD ROM(s), or a flash drive, and the provider file shall have only the following six columns. These columns shall be in the following order: (1) physician name (2) <del>specialty type</del> (3) physical address (4) city (5) state (6) zip code of each physician listing. By submission of its provider listing, the applicant is affirming that all of the physicians listed <del>understand that the Medical Treatment Utilization Schedule (“MTUS”) is presumptively correct on the issue of the extent and scope of medical treatment and diagnostic services and</del> have a valid and current license number to practice in the State of California.</p> <p>Please refer to her comments on section 9767.1(a)(25)(C) regarding physician type versus physician specialty.</p>	Brenda Ramirez Claims & Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments	Reject: Commenter recommends the use of the word “type” instead of “specialty” to describe how physicians are supposed to be categorized when determining if access standards are met. Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.”	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter opines that an individual or entity cannot attest to another's "understanding."</p>		<p>Agree in part. Reject in part: The word "understand" will be deleted but it will be replaced with "have been informed".</p>	<p>§9767.3(c)(2) is revised to delete the word "understand" and replace it with the phrase "have been informed."</p>
9767.3(c)(2)	<p>Commenter states that this subsection refers to "each physician listing." Commenter opines that this is a typographical error as the sentence makes more sense if the reference is to "each physician listed."</p> <p>Commenter states that this section also refers to the description of a physical address without requiring it be the physical address where the listed physician is available to provide medical services. Commenter opines that this is an oversight.</p>	<p>Stephen J. Cattolica Director of Government Relations ADVOCAL September 30, 2013 Written and Oral Comments</p>	<p>Agree: The typographical error will be corrected.</p>	<p>§9767.3(c)(2) will be revised from "physician listing" to "physician listed".</p>
9767.3(c)(3)	<p>Commenter recommends the following revised language:</p> <p>By submission of an ancillary provider listing, the applicant is affirming that the providers listed have a current valid unrestricted license number to practice, if they are required to have a</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: Revisions to this section will be made but will include, "can provide the requested medical services or goods".</p>	<p>§9767.3(c)(3) is revised to delete the phrase "reasonable and necessary" and add the phrase the requested" medical services "or goods".</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	license by the State of California.			
9767.3(c)(3)	<p>Commenter recommends the following revised language:</p> <p><b>(d) (e) (3) The ancillary service provider file <del>must</del> shall have only the following <del>three</del> six columns. The columns shall be in the following order: (1) the name of the each ancillary service provider (2) specialty or type of service and (3) <del>location</del> physical address (4) city (5) state (6) zip code of each ancillary service provider. If the ancillary service provider is mobile, and there are on-line search functions, the directory may list the mobile ancillary provider by name and telephone number only. If the ancillary service or ancillary service provider is mobile, list the covered service area by zip code(s) within California. By submission of an ancillary provider listing, the Applicant is affirming that the providers listed can provide reasonable and necessary medical services and have a current valid license number to practice, if they are required to have a license by the</b></p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject in part. Agree in part: The requirement to provide a physical address will remain because it helps validate the legitimacy of a business even if there are on-line search functions for mobile ancillary service providers. The zip code(s) requirement will be deleted because it is overly burdensome and unnecessary but the requirement to list the covered service area within California will remain to ensure it matches with the MPN geographic service area.</p>	<p>§9767.3(c)(3) is revised by deleting the phrase “by zip code(s)”.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
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	<p><b>State of California.</b></p> <p>Commenter suggests removing the requirement for a physical address as this is not always applicable for ancillary service providers. In some instances it may be appropriate to list ancillary service providers under a single name and location due to the nature of the services provided. For example, injured employees will go to their primary treating physician's office to provide urine samples for a drug test. The physician then ships the sample to the ancillary service lab for testing. Similarly, for DME and home health care, a service or good may be ordered but the injured employee receives the service or good either at home, or at a treating physician's office. Commenter opines that the same situation exists for interpreters who go to the physician's office. For these types of ancillary services, only the name of the ancillary service company, address or PO Box and appropriate contact information should be required to be listed as the injured employee will never go to the company's place of business to receive services.</p>			
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MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter also suggests changing the requirement to list zips for mobile ancillary services as this requirement is overly burdensome to maintain. Commenter opines that since an MPN is not required to have a specific number of ancillary providers in a given radius and provider search engines typically allow an injured work to select a radius (i.e. 10 miles) when locating a provider this requirement is unnecessary.</p>			
9767.3(c)(3)	<p>Commenter recommends the following revised language:</p> <p>(c)(3) The ancillary service provider file shall have only the following six columns. The columns shall be in the following order: (1) the name of each ancillary service provider (2) <u>specialty or type of service</u> (3) <u>physical address or P.O Box</u> (4) city (5) state (6) zip code of each ancillary service provider, <del>if applicable. If the ancillary service or ancillary service provider is mobile, list the covered service area by zip code(s) within California.</del> By submission of an ancillary provider listing, the applicant is affirming that the providers listed <u>can provide reasonable and necessary medical</u></p>	<p>Kathleen Bissell Liberty Mutual Insurance Company September 30, 2013 Written Comment</p>	<p>Reject in part. Agree in part: The requirement to provide a physical address will remain because it helps validate the legitimacy of a business even if there are on-line search functions for mobile ancillary service providers. The zip code(s) requirement will be deleted because it is overly burdensome and unnecessary but the requirement to list the covered service area within California will remain to ensure it matches with the MPN geographic service area.</p>	<p>§9767.3(c)(3) is revised by deleting the phrase “by zip code(s)”.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><u>services and have a current valid license number to practice, if they are required to have a license by the State of California, and have a current valid certification if required.</u></p> <p>Commenter suggests removing the requirement for a physical address for ancillary services as this is not always applicable for applicable for these service providers. Commenter also suggests removing the requirement to list zip codes for mobile ancillary services as this requirement is overly burdensome to maintain. Commenter opines that since an MPN is not required to have a specific number of ancillary providers in a given radius and provider search engines typically allow an injured work to select a radius (often 10 miles) when locating a provider, this requirement is unnecessary.</p>			
9767.3(c)(3)	<p>Commenter recommends the following revised language:</p> <p>The <u>voluntary</u> ancillary service provider file shall have only the following six columns. The columns shall be in the following order: (1) the name of the each ancillary service</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Agree: A revision will be made to clarify the listing of ancillary service providers is voluntary.</p>	<p>§9767.3(c)(3) will be revised to add the phrase “If an MPN chooses to provide ancillary services”.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>provider (2) specialty or type of service (3) physical address (4) city (5) state (6) zip code of each ancillary service provider. If the ancillary service or ancillary service provider is mobile, list the covered service area by zip code(s) within California. By submission of an ancillary provider listing, the applicant is affirming that the providers listed can provide reasonable and necessary medical services and have a current valid license number to practice, if they are required to have a license by the State of California, <u>and have a current valid certification if required.</u></p> <p>Commenter states that the ancillary service listing is voluntary as clarified in subdivision (d)(8)(I) and explained under the Specific Purpose heading for this section in the Initial Statement of Reasons.</p> <p>Commenter opines that it is not appropriate to include “specialty” in column 2). Commenter states that ancillary service providers, other than those described as “physicians” in Labor Code section 3209.3, generally</p>		<p>Reject: Disagree with commenter’s definition of “type” of physician. As mentioned in above response, Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.” In addition, a minimum of three physicians in each specialty are needed to fulfill access standards because of Labor Code §4616.3 requirements that specifically describes an injured worker’s right to seek a second and third opinion from physician’s in the MPN.</p> <p>Agree: Affirming that a provider listed can provide the medical services or goods requested and has a current valid license number or certification to practice, if</p>	<p>None.</p> <p>§9767.3(c)(3) will be revised to delete “reasonable and necessary” to add the phrases “the requested” “or</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>do not have specialties.</p> <p>Commenter opines that the requirement to affirm competence is overly broad. Commenter states that MPN applicants or their agents enter into contracts with ancillary providers with the good faith assumption that the provider is competent to provide such services. Commenter opines that a requirement to affirm the license and certification requirement is sufficient.</p>		<p>required to have a license or certification by the State of California is sufficient.</p> <p>Reject: A current license number or certification to practice affirms competence.</p>	<p>goods” and “or certification”.</p> <p>None.</p>
9767.3(c)(4)	<p>Commenter recommends the following revised language:</p> <p>If a medical group is listed in an MPN provider listing, only physicians selected and listed in the MPN provider directory in that medical group are considered to be approved providers in the Medical Provider Network approved log number.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The regulatory text as written is confusing to many commenters. The entire subdivision will be deleted.</p>	<p>§9767.3(c)(4) is deleted and the subsequent subdivision has been re-numbered.</p>
9767.3(c)(4)	<p>Commenter recommends the following revised language:</p> <p><b><u>(c)(4) An employer/carrier has the right to choose to add medical groups and clinics as a whole, or to contract only with specific physician/vendors within the medical group or clinic. No</u></b></p>	<p>Dennis Knotts September 30, 2013 Written Comment</p>	<p>Accept in part. Reject in part: The regulatory text as written is confusing to many commenters. The entire subdivision will be deleted. MPN listings by medical group</p>	<p>§9767.3(c)(4) is deleted and the subsequent subdivision has been re-numbered. Also, §9767.3(d)(8)(G) is</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><b><u>physician from a medical group or clinic will be added to the employer/carrier's MPN without expressed authorization to do so.</u></b></p> <p>Commenter opines that creating a blank medical group membership removes the carrier's/employer's control. A physician that was barred by the carrier or employer can then join the MPN by being hired by that medical group. The trust is then gone. The need for Utilization Review increases. Delays begin. The employee does not trust the employer or MPN. Litigation increases.</p> <p>Commenter states that the proposed change is vital to developing a trusted MPN and of giving the carrier/employer the control for adding physicians</p>		<p>will no longer be allowed. Physicians in a medical group must be individually listed, although an MPN may include a medical group affiliations with each individual physician listed. The recommended language will not be adopted although the result of the changes will be similar.</p>	<p>revised to include "Only individual physicians in the MPN shall be listed, but MPN medical group affiliation(s) may be included with each individual physician listed."</p>
9767.3(c)(4)	<p>Commenter recommends the following revised language:</p> <p><b><u>(c)(4) An employer/carrier has the right to choose to add medical groups and clinics as a whole, or to contract only with specific physician/vendors within the medical group or clinic. No</u></b></p>	<p>Dennis Knotts September 30, 2013 Written Comment</p>	<p>Reject: The regulatory text as written is confusing to many commenters. The entire subdivision will be deleted. MPN listings by medical group will no longer be allowed.</p>	<p>§9767.3(c)(4) is deleted and the subsequent subdivision has been re-numbered. Also, §9767.3(d)(8)(G) is</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><b><u>physician from a medical group or clinic will be added to the employer/carrier's MPN without expressed authorization to do so.</u></b></p> <p>Commenter opines that the current proposed language is ambiguous and needs to be clearer. Commenter states that the issue has been raised that many clinics or medical groups will not let their physicians become part of an MPN unless all their physicians are allowed. Commenter opines that creating a blank medical group membership removes the carrier's/employer's control. A physician that was barred by the carrier or employer can then join the MPN by being hired by that medical group. Commenter opines that the trust is then gone. The need for Utilization Review increases. Delays begin. The employee does not trust the employer or MPN. Litigation increases.</p> <p>Commenter states that his proposed language is vital to developing a trusted MPN and of giving the carrier/employer the control for adding physicians.</p>		<p>Physicians in a medical group must be individually listed, although an MPN may include a medical group affiliations with each individual physician listed. The recommended language will not be adopted although the result of the changes will be similar.</p>	<p>revised to include "Only individual physicians in the MPN shall be listed, but MPN medical group affiliation(s) may be included with each individual physician listed."</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.3(c)(4)	<p>Commenter proposes that the physician be listed by name and that the group affiliation be listed under their name with a disclaimer that states that not all practitioners at that group/practice may be eligible to participate in the MPN.</p> <p>Commenter's intent is to list the network of providers versus groups. Commenter makes reference to Labor Code section 4616.</p>	<p>Margaret Wagner Signature Networks Plus, Inc. September 30, 2013 Written and Oral Comments</p>	<p>Accept in part. Reject in part: The regulatory text as written is confusing to many commenters. The entire subdivision will be deleted. MPN listings by medical group will no longer be allowed. Physicians in a medical group must be individually listed, although an MPN may include a medical group affiliations with each individual physician listed. The recommendation to add a disclaimer that states that not all practitioners at that group/practice may be eligible to participate in the MPN will not be adopted.</p>	<p>§9767.3(c)(4) is deleted and the subsequent subdivision has been re-numbered. Also, §9767.3(d)(8)(G) is revised to include "Only individual physicians in the MPN shall be listed, but MPN medical group affiliation(s) may be included with each individual physician listed."</p>
9767.3(c)(4)	<p>Commenter opines that this section is confusing. Commenter states that it makes an initial statement regarding "physicians <b>in</b> a medical group," (emph. added) without defining what "<b>in</b>" means. Commenter opines that this means physicians who are employees of the group and owners of the medical group. Commenter wonders if this includes physicians providing medical services as independent contractors.</p>	<p>Stephen J. Cattolica Director of Government Relations ADVOCAL September 30, 2013 Written and Oral Comments</p>	<p>Accept: The regulatory text as written is confusing to many commenters. The entire subdivision will be deleted. MPN listings by medical group will no longer be allowed. Physicians in a medical group must be individually listed, although an MPN may include a medical group affiliations with each individual physician listed.</p>	<p>§9767.3(c)(4) is deleted and the subsequent subdivision has been re-numbered. Also, §9767.3(d)(8)(G) is revised to include "Only individual physicians in the MPN shall be listed, but MPN medical group affiliation(s)</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter opines that this subsection confuses this first sentence further by stating that it may not always be true. Commenter states that the section then goes on to state that it is the MPN's prerogative to decide how the MPN chooses to list the physicians "in" the group. Commenter requests that there be no option but to individually list all physicians considered "in" the group. Commenter opines that a "blanket" reference to a medical group does not provide an injured worker with any information by which to make an informed choice of physician as is their right pursuant to Labor Code Section 4616 (b) (3).</p>			<p>may be included with each individual physician listed.”</p>
9767.3(c)(4)	<p>Commenter is concerned that this rule states that if a medical group is listed as a provider, then all physicians in that group are considered approved network providers. Commenter opines that this is problematic as there are many groups that include providers an MPN may not wish to include in its network, and that ensuring they remain excluded will mean having to list each individual provider of each group. Commenter states this will be especially difficult</p>	<p>Erin Van Zee Manager Medical Networks Promesa Health August 21, 2013 Written Comment</p>	<p>Accept: The regulatory text as written is confusing to many commenters. The entire subdivision will be deleted. MPN listings by medical group will no longer be allowed. Physicians in a medical group must be individually listed, although an MPN may include a medical group affiliations with each individual physician listed.</p>	<p>§9767.3(c)(4) is deleted and the subsequent subdivision has been re-numbered. Also, §9767.3(d)(8)(G) is revised to include “Only individual physicians in the MPN shall be listed, but MPN medical group affiliation(s) may be included with</p>

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	for large locations. Commenter would like to know how the division plans on dealing with situations such as this.			each individual physician listed.”
9767.3(c)(5)	<p>Commenter recommends the following revised language:</p> <p>Only locations listed for providers included in the MPN provider directory are considered to be approved locations under the MPN.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Accept: The regulatory text will be revised to make the suggested clarifications.</p>	<p>§9767.3(c)(4) is renumbered from (c)(5) and is revised to state “An MPN determines which locations are approved for physicians to provide treatment under the MPN. Approved locations are listed in an MPN’s provider listing, however, an MPN has the discretion to approve treatment at non-listed locations.”</p>
9767.3(c)(5)	<p>Commenter recommends that this subsection be deleted.</p> <p>Commenter is uncertain what issue this proposed new rule is meant to address, and opines that the proposed language could be detrimental to both employees and employers.</p> <p>Commenter notes that MPN statutes establish networks of providers, not</p>	<p>California Applicants’ Attorneys Association September 29, 2013 Written Comment</p>	<p>Reject: Locations are important in determining</p>	<p>None.</p>

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>locations. It is unclear why a provider who has several locations should be restricted to treating at locations only approved by the MPN, nor is it clear whether the Division has the authority to limit the physician to providing treatment at a certain location.</p> <p>Commenter opines that there are a number of reasons why such a limitation could be harmful. A physician who maintains two locations can have different waiting times to schedule an appointment at the two offices, and restricting treatment to one of those offices could delay treatment and return to work. In other cases, one location may be closer to the employee's home while a second location may be closer to the employee's work. Commenter opines that limiting treatment to one office would add unnecessary inconvenience, as well as increased transportation expenses and additional exposure to motor vehicle accidents or other unforeseen consequences. Further, some injuries involve multiple employers with different insurance carriers, each with its own MPN, and this limitation could</p>		<p>access standards. Satellite office addresses can be established and used to determine access standards but a physician may only treat in that location on rare occasions. Thus, forcing an injured employee to treat in a location outside the access standards. In the interest of full-disclosure, physician locations are necessary. However, an MPN has the discretion to approve treatment location at non-listed locations if agreed upon by the injured employee.</p>	

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	unnecessarily complicate treatment for these injured employees. Commenter notes that when physicians have multiple office locations, it is not infrequent that different MPNs list different addresses. Commenter opines that where there are multiple MPNs involved, at best this rule would be confusing, and at worst it could result in a delay in treatment.			
9767.3(c)(5)	<p>Commenter recommends the following revised language:</p> <p>(c)(5) An MPN <del>determines which locations are approved for providing treatment under the MPN, which are listed in its provider listing</del> <u>may limit the locations at which providers may treat under the MPN by specifying locations in its listing.</u> An MPN has the discretion to approve treatment at non-listed locations.</p> <p>Commenter opines that the originally proposed language lacked clarity. Commenter states that the recommended language clearly grants MPNs the ability to control where medical care is provided, and should be adopted.</p>	<p>Jeremy Merz California Chamber of Commerce</p> <p>Jason Schmelzer California Coalition on Workers' Compensation September 30, 2013 Written Comment</p>	<p>Reject: Although the regulatory text will be revised to clarify MPN's determine the locations where treatment will be provided, the recommended language will not be adopted.</p>	<p>§9767.3(c)(4) is renumbered from (c)(5) and is revised to state "An MPN determines which locations are approved for physicians to provide treatment under the MPN. Approved locations are listed in an MPN's provider listing; however, an MPN has the discretion to approve treatment at non-listed locations."</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.3(c)(5)	<p>Commenter recommends the following revised language:</p> <p>An MPN <del>determines which locations are approved for providing treatment under the MPN, which are listed in its provider listing</del> <u>may limit the locations at which and/or affiliations under which providers may render services under the MPN by specifying those locations and/or affiliations in its listing.</u> An MPN has the discretion to approve treatment at non-listed locations.</p> <p>Commenter opines that the meaning of the proposed language is not clear and this modification is recommended for clarity.</p> <p>Commenter opines that in addition to service locations, an MPN must be able to limit affiliations under which providers may provide services. Some providers assert that once they have been accepted in an MPN under any affiliation, they are in the MPN for all affiliations. Commenter opines that the addition is needed to ensure that an MPN may select a provider who participates in a medical group, but</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: Although the regulatory text will be revised to clarify MPN's determine the locations where treatment will be provided, the recommended language will not be adopted.</p> <p>Accept: MPN listings by medical group will no longer be allowed. Physicians in a medical group must be individually listed, although an MPN may include a medical group affiliations with each individual physician listed.</p>	<p>§9767.3(c)(4) is renumbered from (c)(5) and is revised to state "An MPN determines which locations are approved for physicians to provide treatment under the MPN. Approved locations are listed in an MPN's provider listing; however, an MPN has the discretion to approve treatment at non-listed locations."</p> <p>§9767.3(c)(4) is deleted and the subsequent subdivision has been re-numbered. §9767.3(d)(8)(G) is revised to include "Only individual physicians in the MPN shall be listed, but MPN medical</p>

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>who also has a private practice, as participating in the MPN through their affiliation with the medical group and not through their private practice location.</p> <p>Commenter opines that this becomes an issue when large provider groups have agreements with individual providers who provide services at multiple locations, but only because of their affiliation with the large medical group. The MPN may be willing to allow the provider in the MPN because of the oversight provided by the large medical group, but because practice patterns change when treatment is through the private practice, the MPN does not want to include the private practice in the MPN. Commenter is aware of several situations where injured employees are being asked to travel up to 230 miles by providers for treatment because the providers have office locations throughout the state, but will perform surgeries only near their home offices. Commenter opines that this model creates additional risks and unnecessary inconvenience for injured employees.</p>			<p>group affiliation(s) may be included with each individual physician listed.”</p>

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
9767.3(c)(6)	<p>Commenter recommends the following revised language:</p> <p>(6) An MPN applicant shall have the exclusive right to determine the members of its Medical Provider Network.</p> <p>Commenter opines that the term should consistently appear as “MPN network” in order to differentiate from other networks types such as PPO.</p> <p>Commenter states that if subsection (4) is adopted that it should be modified to state “exclusive right to determine groups to be included as individual providers for private practice TIN’s.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The word “network” is used to describe the underlying network of providers</p>	<p>None.</p>
9767.3(c)(7)	<p>Commenter recommends adding a new subsection, language as follows:</p> <p>(c)(7) If a MPN application is submitted for the benefit of more than one insurer or self-insured employer the MPN application shall include a listing of insurers and self-insured employers and shall include a valid certificate of self-insurance and valid certificates of insurance for each entity.</p>	<p>Kathleen Bissell Liberty Mutual Insurance Company September 30, 2013 Written Comment</p>	<p>Reject: This recommendation is unnecessary because the only MPN Applicant that can be submitted with multiple insurer or self-insured employer clients will be those filed and approved by an entity that provides physician network services.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter states that this new subsection will provide for identification of MPN participants.</p>			
9767.3(c)(8)(L)	<p>Commenter notes that in addition to describing how the MPN complies with the access standards, the applicant is to state the five most commonly used specialties for workers' compensation injuries. A specialty list follows and is inclusive of Pain Specialty Medicine. Commenter states that there is no guidance regarding what constitutes the pain specialty. Commenter opines that numerous providers can treat pain, which could create a challenge to the MPN if the specific type of pain specialty is not included. Commenter states that there is a serious concern over undermining treating physicians through efforts to push MPNs to include Pain Management. Commenter recommends excluding pain specialties from the MPN.</p>	<p>Greg Moore President, Harbor Health Systems One Call Care Management September 30, 2013 Written Comment Oral Comment</p>	<p>Accept in part. Reject in part. The regulatory text requiring the MPN Applicant to state the five most commonly used specialties for workers' compensation injuries will be deleted. This includes the listing of Pain Specialty Medicine.</p>	<p>None.</p>
9767.3(d)(8)(S)	<p>Commenter seeks further clarification regarding the definition of an acceptable 'quality of care' standard. Commenter opines that quality of care standards and quality of care evaluation initiatives can vary widely</p>	<p>Robert Mortensen, President Anthem Workers' Compensation  Angie O'Connel</p>	<p>Accept in part: The regulatory text will be revised to delete terms and add terms to clarify that engaging in outcomes initiatives is not mandated.</p>	<p>§9767.3(d)(8)(S) is revised to state "Describe the MPN's procedures, criteria and how data is used to continuously</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>in scope. Complicating the matter is the fact that many MPN data sets are too small for statistical relevance. Commenter states that most workers' compensation medical billing information is collected at the tax identification level and not at the license or NPI level which would allow for insight into individual practice pattern variations and true quality of care analysis. It is the commenters understanding that the proposed regulations may require all MPN applicants to engage in an outcomes initiative which may require combining medical bill, disability, UR data and Pharmacy Benefit Management Data, and other data in order to comply.</p>	<p>Director of Account Management &amp; MPN Services Anthem Workers' Compensation September 30, 2013 Written Comment</p>		<p>review quality of care and performance of medical personnel, utilization of services and facilities, and costs.”</p>
9767.3(d)(1)	<p>Commenter recommends the following revised language:</p> <p>For an entity providing healthcare network services, please attach documentation of current legal status as a valid preferred provider network, including credentialing policies and procedures, medical policies, documentation of express written agreements with healthcare provider if requested.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: An entity that provides physician network services is broadly defined. Providing a specific list of documents to be submitted will likely be inadequate to cover all the possibilities.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter opines that there is a need to be more specific on what type of documentation will meet requirements depending on “contracting entity type.”</p>			
9767.3(d)(1)	<p>Commenter recommends that the word “please” be stricken. Commenter opines that with respect to “an entity providing physician network services,” the requirement is phrased as a request, which the entity could choose to not comply.</p>	<p>Stephen J. Cattolica Director of Government Relations ADVOCAL September 30, 2013 Written and Oral Comments</p>	<p>Agree: The word “please” will be deleted.</p>	<p>§9767.3(d)(1) the word “please” is deleted.</p>
9767.3(d)(2)	<p>Commenter recommends the following revised language:</p> <p>List each applicant name for a Carrier or self-insurance certificate or the Network Service Entity that will have covered employees under this plan.</p> <p>Commenter states that the goal is to minimize the number of applications/log numbers. Commenter states that the MPN network is the same for all submitted under one application as long as the Carrier or Self Insured Employer affiliates are all related to the parent company.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: This recommendation is unnecessary because the only MPN Applicant that can be submitted with multiple insurer or self-insured employer clients will be those filed and approved by an entity that provides physician network services.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.3(d)(3)	<p>Commenter recommends the addition of the following sentence:</p> <p>List TIN for each applicant name included on the application.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: There will only be one MPN Applicant and one TIN number.</p>	<p>None.</p>
9767.3(d)(4)	<p>Commenter recommends the following revised language:</p> <p><b><u>(4) Name of Medical Provider Network, if applicable. Use a name that is not used by an existing approved Medical Provider Network unless the applicant intends to participate in an existing MPN.</u></b></p> <p>Commenter states that typically an MPN Applicant will request access to an MPN that already has an MPN approval number. Commenter opines that this section should be updated to allow for that situation.</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: The commenter separates MPNs from MPN Applicants when they are essentially one in the same. The MPN is the entity approved by the DWC as a Medical Provider Network and the MPN Applicant is legally responsible for the MPN. In other words, the MPN Applicant is the entity that legally acts on behalf of the MPN. It appears the commenter is mistaking an MPN for the underlying network of physicians that may make up the MPN.</p>	<p>None.</p>
9767.3(d)(4)	<p>Commenter recommends the following revised language:</p> <p>(d) (4) Name of Medical Provider Network. <u>Use a name that is not used by an existing approved Medical Provider Network unless the applicant</u></p>	<p>Kathleen Bissell Liberty Mutual Insurance Company September 30, 2013 Written Comment</p>	<p>Reject: The commenter separates MPNs from MPN Applicants when they are essentially one in the same. The MPN is the entity approved by the DWC as a Medical Provider Network and</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><u>intends to participate in an existing MPN.</u></p> <p>Commenter opines that typically an MPN applicant will request access to an MPN that already has an MPN approval number. Commenter recommends this change to recommend this type of situation.</p>		<p>the MPN Applicant is legally responsible for the MPN. In other words, the MPN Applicant is the entity that legally acts on behalf of the MPN. It appears the commenter is mistaking an MPN for the underlying network of physicians that may make up the MPN.</p>	
9767.3(d)(4)	<p>Commenter recommends the following revised language:</p> <p>Name of Medical Provider Network. <u>When submitting an application for a new MPN, Use a name that is not used by an existing approved Medical Provider Network. Use the name of the existing Medical Provider Network in an application for re-approval.</u></p> <p>Commenter suggests this revision for clarity</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: This clarification is unnecessary because reapprovals are covered under section 9767.15.</p>	None.
9767.3(d)(7)	<p>Commenter recommends adding the following new section to address the requirements in the new 9767.3(c) section that he has proposed.</p>	<p>Mark Sektan, President Association of California Insurance Companies (ACIC)</p>	<p>Reject: This recommendation is unnecessary because the only MPN Applicant that can be submitted with multiple insurer or self-insured</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<b><u>(d) (7) If a MPN application is submitted for the benefit of more than one insurer or self-insured employer, the MPN application shall include a listing of insurers and self-insured employers and shall include a valid certificate of self-insurance and valid certificates of insurance for each entity.</u></b>	September 30, 2013 Written Comment	employer clients will be those filed and approved by an entity that provides physician network services.	
9767.3(d)(8)(A)	Commenter suggests adding the word “estimated” before “number” to this subsection. Commenter states that in some instances an applicant can only estimate the number of employees. For example, insurance carriers or an Entity that provides physician network services base employee count on their book of business, they do not have actual employee counts.	Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment	Accept in part. Reject in part: Agree with commenter’s rationale but the regulatory text will not adopt the suggested language.	§9767.3(d)(8)(A) is revised to “Affirm that the MPN network is adequate to handle the expected number of claims covered under the MPN and explain how this was determined.”
9767.3(d)(8)(A)	<p>Commenter recommends the following revised language:</p> <p>State the number of employees <u>or injured employees</u> expected to be covered by the MPN plan <del>and the method used to calculate the number;</del></p> <p>Commenter opines that the number of network providers must be sufficient for the number of injured employees; however some applicants can more</p>	Brenda Ramirez Claims & Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments	Accept in part. Reject in part: Agree with commenter’s rationale but the regulatory text will not adopt the suggested language.	§9767.3(d)(8)(A) is revised to “Affirm that the MPN network is adequate to handle the expected number of claims covered under the MPN and explain how this was determined.”

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>accurately estimate the number of employees than the number of injured employees. Commenter states that allowing applicants to estimate either the number of covered employees or the number of covered injured employees will provide the best estimates.</p> <p>Commenter opines that it is not necessary to describe the method used to calculate the number. This is necessarily an estimate.</p>			
9767.3(d)(8)(A) and (S)	<p>Commenter notes that within the MPN application, the applicant is required to state the number of employees expected to be covered by the MPN plan <i>and the method used to calculate the number</i>. Commenter opines that his open-ended language concerning the method used to calculate the number will cause confusion. Commenter recommends striking the language or adding that the MPN applicant may define an alternative methodology for predicting the expected number of claims annually.</p> <p>Commenter notes that Item (S) from the same Section requires the MPN to describe the procedures used to ensure</p>	<p>Greg Moore President, Harbor Health Systems One Call Care Management September 30, 2013 Written Comment Oral Comment</p>	<p>Accept in part. Reject in part: Agree with commenter’s rationale but the regulatory text will not adopt the suggested language.</p> <p>Accept: The regulatory text will be revised to delete the term “used to ensure ongoing”.</p>	<p>§9767.3(d)(8)(A) is revised to “Affirm that the MPN network is adequate to handle the expected number of claims covered under the MPN and explain how this was determined.”</p> <p>9767.3(d)(8)(S) is revised to delete “used to ensure</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>ongoing quality of care. Commenter opines that this could be a competitive advantage for certain providers and not necessary if the MPN is certified as meeting quality of care standards. Commenter recommends that a quality of care certification be considered as sufficient to meet this requirement.</p> <p>Commenter state that these regulations also require the MPNs to create a ‘quality of care’ performance plan but no details are provided regarding what must be included in the ‘performance plan’. Commenter would like to see this requirement be expanded upon to define the contents of the performance plan.</p>		<p>Accept in part. Reject in part. The regulatory text will be revised to provide some clarification of the goals but the details of how an MPN reviews its quality of care will be left to each individual MPN.</p>	<p>ongoing.”</p> <p>9767.3(d)(8)(S) is revised to delete “used to ensure ongoing” and the phrase “criteria and how data is used to continuously review” quality of care is added.</p>
9767.3(d)(8)(C)	<p>Commenter recommends the following revised language:</p> <p>(d)(8)(C) The toll-free number, <del>email address, fax number</del> and days and times of availability to reach the MPN’s medical access assistants.</p> <p>Commenter states that requiring the e-mail and fax number exceed the parameters of the statutory authorization. Commenter recommends that language be</p>	<p>Steven Suchil Assistant Vice President/Counsel American Insurance Association September 27, 2013 Written Comment</p>	<p>Reject: MPN Medical Access Assistants are statutorily mandated to help injured employees find available MPN physicians and schedule appointments. Requiring that MPN medical access assistants be available not only by telephone but via e-mail and fax, two very common means for businesses to communicate and serve its customers, is necessary to effectuate the</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	included stating that these contact mechanisms are voluntary. If so, it will be important that the e-mail and fax lines be dedicated for this purpose so that if an individual Access Assistant is not present any query will not go unanswered.		statutory mandates.	
9767.3(d)(8)(C)	<p>Commenter recommends the following revised language:</p> <p>The toll-free number, <del>email address,</del> <del>fax number</del> and days and times of availability to reach the MPN's medical access assistants.</p> <p>Commenter states that the statute does not require an email address and fax number. Commenter opines that because the statute delineates what is required (a toll-free telephone number and available days and hours), the additionally proposed requirements are an impermissible expansion of the Administrative Director's authority and she recommends deleting the email address and fax number requirements, or clarifying that they are optional.</p>	Brenda Ramirez Claims & Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments	Reject: MPN Medical Access Assistants are statutorily mandated to help injured employees find available MPN physicians and schedule appointments. Requiring that MPN medical access assistants be available not only by telephone but via e-mail and fax, two very common means for businesses to communicate and serve its customers, is necessary to effectuate the statutory mandates.	None.
9767.3(d)(8)(C)	Commenter recommends the following revised language:	Anita Weir, RN CRRN Director, Medical &	Reject: MPN Medical Access Assistants are statutorily mandated to help injured	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>The toll-free number, <del>email address,</del> <del>fax number</del> and days and times of availability to reach the MPN's medical access assistants.</p> <p>Commenter opines that the Statute does not require email and fax number and management of these services outside of the established claims systems will be costly and inefficient and of questionable value to the employee. Email and fax access are provided by the claims management services.</p>	<p>Disability Management Safeway, Inc. September 30, 2013 Written Comment</p>	<p>employees find available MPN physicians and schedule appointments. Requiring that MPN medical access assistants be available not only by telephone but via e-mail and fax, two very common means for businesses to communicate and serve its customers, is necessary to effectuate the statutory mandates.</p>	
9767.3(d)(8)(D)	<p>Commenter recommends the following revised language:</p> <p><b><u>(D) The MPN website address, if available;</u></b></p> <p>Commenter states that not all MPNs have designated websites for the MPN.</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: Pursuant to Labor Code section 4616(a)(4), commencing January 1, 2014 MPN's are required to have an Internet Web site address.</p>	None.
9767.3(d)(8)(D)	<p>Commenter recommends the following revised language:</p> <p>The MPN website address, <u>if any</u>;</p> <p>Commenter states that not all MPNs</p>	<p>Kathleen Bissell Liberty Mutual Insurance Company September 30, 2013 Written Comment</p>	<p>Reject: Pursuant to Labor Code section 4616(a)(4), commencing January 1, 2014 MPN's are required to have an Internet Web site address.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	presently have a designated website so she recommends this revised language.			
9767.3(d)(8)(F)	<p>Commenter recommends the following revised language:</p> <p>Affirm that each MPN physician in the network has agreed in writing to treat injured workers under the MPN and that the written acknowledgements with original signatures or an electronic method of compliance in accordance with the requirements under the Physician Acknowledgments section 9767.5.1 are available for review by the Administrative Director upon request;</p> <p>Commenter opines that the affirmation would be dependent upon the acceptance of the electronic alternative language.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Accept in part. Reject in part: The requirement for MPNs to provide the DWC with physician acknowledgments in accordance with the “Physician Acknowledgments,” section 9767.5.1, should suffice. The regulatory text will be revised to delete “with original signature.”</p>	<p>§9767.3(d)(8)(F) is revised to delete the phrase “with original signatures”.</p>
9767.3(d)(8)(F)	<p>Commenter recommends the following revised language:</p> <p><b><u>(F) Affirm that each MPN physician in the network has agreed in writing to treat workers under the MPN and that the written acknowledgments with original signatures in accordance with the</u></b></p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Accept. The regulatory text will be revised to delete “with original signatures”.</p>	<p>§9767.3(d)(8)(F) is revised to delete the phrase “with original signatures”.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
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	<p><b><u>requirements under “Physician Acknowledgements,” section 9767.5.1, are available for review by the Administrative Director upon request;</u></b></p> <p>This subsection includes a requirement that the MPN maintain written acknowledgments with original signatures in accord with 9767.5.1. Commenter states that section 9767.5.1 was modified to allow electronic signatures. Additionally, Labor Code §4616(a)(3) only requires that the MPN provide copies of the acknowledgement to the administrative director upon request, not the original. Commenter opines that MPNs should be permitted to follow their normal records retention requirements and scan original documents into their system for retention purposes and destroy originals once the scanning and verification processes are complete. The scanned version than becomes the original for all purposes. Commenter opines that businesses should not be required to create a “paper” maintenance system solely for the purpose of retaining the “wet ink”</p>			
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MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	signature of the provider on an acknowledgement form.			
9767.3(d)(8)(F)	<p>Commenter recommends the following revised language:</p> <p>“Affirm that each MPN physician in the network <u>or physician authorized to contract on behalf of the participating medical group in the network</u> has agreed in writing to treat workers under the MPN and that the written acknowledgments with original signatures in accordance with the requirements under “Physician Acknowledgments,” section 9767.5.1, are available for review by the Administrative Director upon request;”</p> <p>Commenter states that the current language fails to acknowledge participation of medical groups in the network.</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	Reject: The recommended language is unnecessary because a medical group who has submitted a single physician acknowledgment does so on behalf of each physician in the medical group.	None.
9767.3(d)(8)(F)	<p>Commenter recommends the following revised language:</p> <p>(d)(8)(F) <u>Except for physicians who are a shareholder, partner, or employee of a medical group that elects to be part of the network,</u> Affirm that each MPN physician</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	Reject: These suggested clarifications are unnecessary in this section because they are more thoroughly covered in §9767.5.1. In §9767.3(d)(8)(F), MPNs are merely asked to affirm that the Physician Acknowledgments	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><u>treating in the network or an authorized employee of the physician or physician’s office provided a written acknowledgement that the physician elects <del>has agreed in writing to be a member of treat workers under</del> the MPN and that copies of the written acknowledgements with original signatures by each physician or an authorized employee of the physician or physician’s office shall be in accordance with the requirements under “Physician Acknowledgments,” section 9767.5.1, are available for review by or provided to the Administrative Director upon his or her request;</u></p> <p>Commenter opines that this proposed requirement goes beyond what is required by Labor Code section 4616(a)(3). The recommended language conforms to that section. “<u>Woods v Superior Court (1981) 28 Cal 3d 668; Mendoza v WCAB (2010) en banc opinion 75 CCC 634. See commenter’s discussion under section 9767.1(a)(25)(C).</u>”</p>		<p>were obtained pursuant to §9767.5.1.</p>	
9767.3(d)(8)(F)	<p>Commenter is pleased with this subsection requiring written</p>	<p>Lishaun Francis California Medical</p>	<p>Accept.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	acknowledgement from the provider that they have agreed to become a member on the MPN. Commenter opines that this ensures that physicians have knowingly and proactively acknowledged their participation in the MPN and that this will be the key to transparency and a more efficient MPN process.	Association September 30, 2013 Oral Comment		
9767.3(d)(8)(G)	<p>Commenter recommends the following revised language:</p> <p>A listing of the name, specialty, and location of each physician as described in Labor Code Section 3209.3, who will be providing occupational healthcare services under the plan. By submission of the application, the MPN applicant is confirming that a direct contractual agreement with a network service entity to lease PPO network access to submit as their list of MPN providers or, if they are a healthcare service company direct contractual agreements exists with the physicians, providers or medical group practice in the MPN to provide treatment for injured workers in the workers' compensation systems and that the direct contractual agreement is in</p>	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment	Reject. The commenter's recommended language is unnecessary because his concerns regarding silent PPO's are remedied by the physician acknowledgment requirements of Labor Code §4616(a)(3) and the notice requirements to physicians of Labor Code §4616(g). In addition, the regulations address both of the statutory mandates in §9767.5.1 and 9767.3(d)(8)(T).	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>compliance with Labor Code section 4609, if applicable.</p> <p>Commenter opines that this revised language is necessary as most applications lease PPO network access and do not have direct agreement with providers. Applicants that do not have signed Network Access Agreements and submit MPN applications affirming they have agreements are submitting fraudulent applications. Commenter opine that if Network Access Agreements are not signed that it is a silent PPO. <u>A listing of t</u>The name, specialty, and location of each physician as described in Labor Code Section 3209.3, <del>or other providers as described in Labor Code Section 3209.5</del>, who will be providing occupational healthcare services under the plan. By submission of the application, the MPN applicant is confirming that a direct contractual agreement with a network service entity to lease PPO network access to submit as their list of MPN providers or, if they are a healthcare service company direct contractual agreements</p>			
9767.3(d)(8)(G)	Commenter recommends adding the	Mark Sektnan,	Reject: MPN listings by	§9767.3(d)(8)(G) is

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	phrase “or medical group” after “each physician” in the first sentence of this subsection. Commenter states that an MPN is allowed to list medical groups in the MPN.	President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment	medical group will no longer be allowed. Physicians in a medical group must be individually listed, although an MPN may include a medical group affiliations with each individual physician listed.	revised to include “Only individual physicians in the MPN shall be listed, but MPN medical group affiliation(s) may be included with each individual physician listed.”
9767.3(d)(8)(G)	<p>Commenter recommends the following revised language:</p> <p>A listing of the name, specialty, and location of each physician <u>or medical group</u> as described in Labor Code Section 3209.3, who will be providing occupational medicine services under the plan.</p> <p>Commenter opines that since the MPN is allowed to list medical groups in the MPN she recommends adding a reference for medical groups in this section for clarity.</p>	Kathleen Bissell Liberty Mutual Insurance Company September 30, 2013 Written Comment	Reject: MPN listings by medical group will no longer be allowed. Physicians in a medical group must be individually listed, although an MPN may include a medical group affiliations with each individual physician listed.	§9767.3(d)(8)(G) is revised to include “Only individual physicians in the MPN shall be listed, but MPN medical group affiliation(s) may be included with each individual physician listed.”
9767.3(d)(8)(G)	<p>Commenter recommends replacing the term “specialty” with the term “type” in this subsection.</p> <p>Commenter states that MPN physician listings will include a physician’s specialty to enable an injured</p>	Brenda Ramirez Claims & Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013	Reject: Commenter recommends the use of the word “type” instead of “specialty” to describe how physicians are supposed to be categorized when determining if access standards are met.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>employee to select “a treating physician and any subsequent physicians based on the physician’s specialty or recognized expertise in treating the particular injury or condition in question.” Commenter states that it is necessary to submit the physician type in an MPN application so that the Administrative Director can validate that access standards by type of physician are met pursuant to Labor Code section 4616(a)(1). Commenter opines that there is no such statutory basis or necessity for also requiring the applicant to report the specialty in the MPN application. See in addition to her comment on section 9767.1(a)(25)(C) regarding physician type versus physician specialty.</p>	Written Comments	<p>Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.”</p>	
9767.3(d)(8)(G)	<p>Commenter would like clarification. Commenter questions if the DWC is requesting that they submit a list of all providers (PT, DME, etc) available to beneficiaries. Commenter would like to know if ancillary services are not listed in the MPN if there will be an issue with allowing injured workers to render services from these providers.</p>	<p>Erin Van Zee Manager Medical Networks Promesa Health August 21, 2013 Written Comment</p>	<p>Reject: Ancillary services providers not listed in the MPN is not part of the MPN.</p>	None.
9767.3(d)(8)(H)	<p>Commenter recommends the following revised language:</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013</p>	<p>Agree. Specifics for geocoding have not been provided and the regulatory</p>	<p>§9767.3(d)(8)(H) is revised to state “Provide an</p>

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>Provide an electronic copy of the geocoded provider listing to show compliance with the access standards by zip code for the injured workers being covered by the MPN. This geocoded listing must be provided in electronic format in commercially used geocoding software. The geocoding shall include mapping of the provider locations by street address in a scatter map format within the applicable access standards for all MPN geographic zip code service areas within the State of California.</p> <p>Commenter opines that specifics for geocoding have not been provided. Commenter opines that geocoding should be by zip code as the location for injured workers are always changing.</p>	Written Comment	text will be revised to include the necessary geocoding specifics.	electronic copy in Microsoft Excel format of the geocoding results of the MPN provider directory to show compliance with the access standards for the injured workers being covered by the MPN. The geocoding results shall include the following separate files: 1) a complete list of all zip codes within the MPN geographic service area; 2) a narrative and/or graphic report that establishes that there are at least three available primary treating physicians within the fifteen-mile access standard from the center of each zip code within the MPN geographic service area; 3) a narrative and/or

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
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				<p>graphic report that establishes that there is a hospital or an emergency health care service provider within the fifteen-mile access standard from the center of each zip code within the MPN geographic service area; 4) a narrative and/or graphic report that establishes that there are at least three available specialists to provide occupational health services in each listed specialty within the thirty-mile access standard from the center of each zip code within the MPN geographic service area; 5) a list of all zip codes in which there is a health care shortage and where the access standards are not met for each</p>
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MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
				specialty and an explanation of how medical treatment will be provided in those areas not meeting the access standards; and 6) each physician listed in the MPN provider directory listing shall be assigned at least one provider code as set forth in subdivision (c)(2) of this section to be used in the geocoding reports.”
9767.3(d)(8)(H)	<p>Commenter recommends the following revised language:</p> <p>The geocoding shall include mapping of the provider locations by street address or zip code within the applicable access standards for the entire MPN geographic service area and be mapped on separate maps by <del>specialty</del> physician type. <b><u>Nothing in this section prevents the geocoding listing and mapping for the entire MPN geographic service area from being submitted in smaller</u></b></p>	<p>Jeremy Merz California Chamber of Commerce</p> <p>Jason Schmelzer California Coalition on Workers’ Compensation September 30, 2013 Written Comment</p>	<p>Reject: Allowing piecemeal submissions of the geocoding requirements would make it more difficult to run the geocoding results.</p> <p>Reject: Commenter recommends the use of the word “type” instead of “specialty” to describe how physicians are supposed to be</p>	<p>None.</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><b><u>geographical segments.</u></b></p> <p>Commenter states that this proposed language requires geocoding information to be submitted for the entire MPN geographic service areas. For larger employers, the MPN service area will encompass the entire state. Commenter opines that forcing companies to submit all service area listings and mapping will be onerous and unruly. There could be thousands of providers in one county and tens of thousands of providers throughout the state.</p> <p>Commenter recommends that the DWC allow flexibility for this information to be provided in smaller geographical segments such as county by county, rather than by the entire geographic service area.</p> <p>In reference to physician “specialty” versus “type,” please refer to his comments made regarding 9767.1(a)(12).</p>		<p>categorized when determining if access standards are met. Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b><u>specialty</u></b> or recognized expertise in treating the particular injury or condition in question.”</p>	
9767.3(d)(8)(H)	<p>Commenter recommends deleting this subsection.</p> <p>Commenter notes that applicants are</p>	<p>Mark Sektan, President Association of California Insurance</p>	<p>Reject: Commenter made a</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>asked to include an electronic copy of the geocoded provider listing in the MPN plan description and under subsection 9767.3(d)(8)(I) (although not a modification), applicants are asked to include a listing of each ancillary service provider. Commenter opines that these requests seem misplaced. Commenter recommends that the listings requirements should be moved to either 9767.2(c)(1) or (2) to accompany the provider listing since the mappings will essentially be mappings of the submitted listing. Commenter opines that if anything is required in the MPN plan description requirements it should be limited to a description of how the MPN addresses ancillary providers, not the actual listing of ancillary providers since those are generally submitted as part of the network listing.</p>	<p>Companies (ACIC) September 30, 2013 Written Comment</p>	<p>mistake in citing 9767.2(c)(1) or (2), it appears the correct citation is 9767.3(c)(1) or (2). There are three different requirements. Pursuant to §9767.3(c)(1) or (2) this is the requirement to submit the provider listing electronically. Next, §9767.3(d)(8)(G) is the provider list. Finally, §9767.3(d)(8)(H) sets forth the geocoding requirements. All address requirements that need to be fulfilled when submitting an MPN Application and are properly placed in §9767.3 et seq.</p>	
9767.3(d)(8)(H)	<p>Commenter recommends the following revised language:</p> <p>Provide an electronic copy of the geocoded provider listing to show compliance with the access standards for the injured workers being covered by the MPN. This geocoded listing must be provided in electronic format</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: Geocoding is statutorily mandated pursuant to Labor Code §4616(b)(3).</p> <p>Reject: Commenter recommends the use of the</p>	<p>None.</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><u>and may</u> be created with geocoding software. The geocoding shall include mapping of the provider locations by street address or zip code within the applicable access standards for the entire MPN geographic service area and be mapped on separate maps by <u>specialty physician type</u>.</p> <p>Commenter appreciates the revisions to the draft language that allow more flexibility in geocoding to document access compliance.</p> <p>Labor Code section 4616(b)(3) requires MPNs to submit geocoding for re-approval “to establish that the number and geographic location of physicians in the network meets the required access standards.” Labor Code section 4616(a)(1) requires an adequate number and type of physicians to treat common injuries, and that the number of physicians be sufficient to enable timely treatment. Commenter states that it does not require the same number of physicians in each area, nor does it require access standards by specialty.</p> <p>Please refer to her comment on section</p>		<p>word “type” instead of “specialty” to describe how physicians are supposed to be categorized when determining if access standards are met. Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.”</p>	

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	9767.1(a)(25)(C) regarding physician type versus physician specialty.			
9767.3(d)(8)(I)	<p>Commenter recommends the following revised language:</p> <p>(d)(8)(<del>DI</del>) A voluntary listing of the name, specialty or type of service and location of each ancillary service, other than a physician covered under subdivision (d)(8)(<del>CG</del>) of this section, who will be providing medical <u>goods and/or</u> services within the medical provider network. By submission of the application, the MPN applicant is confirming that a contractual agreement exists the ancillary service providers to provide <u>the goods and/or</u> services to be used under the MPN;</p> <p>Commenter recommends adding “goods and/or” as shown above as ancillary service providers deal in both goods and services. Commenter is somewhat concerned that by allowing a voluntary listing of ancillary providers, it may give them a diminished legal standing should disputes arise.</p>	Steven Suchil Assistant Vice President/Counsel American Insurance Association September 27, 2013 Written Comment	<p>Accept: The word “goods” will be added to indicate an ancillary provider may provide medical services or goods.</p> <p>Reject: MPNs have always been able to list Ancillary Service Providers on a voluntary basis.</p>	<p>§9767.3(d)(8)(I) is revised to add the word “goods” to indicate an ancillary provider may provide medical services or goods.</p> <p>None.</p>
9767.3(d)(8)(I)	Commenter recommends the following revised language:	Brenda Ramirez Claims & Medical		

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>(d)(8)(I) A voluntary listing of the name, <del>specialty</del> or type of service and location of each ancillary service, other than a physician or provider covered under subdivision (d)(8)(G) of this section, who will be providing medical <u>goods and</u> services within the medical provider network. By submission of the application, the MPN applicant is confirming that a contractual agreement exists with the ancillary service providers to provide <u>goods and</u> services to be used under the MPN;</p> <p>Commenter states that ancillary service providers, other than those described as “physicians” in Labor Code section 3209.3 generally do not have specialties, but the type of services they provide can be listed.</p> <p>Commenter opines that ancillary service providers may provide goods as well as services. This is also consistent with the language in the definition of “ancillary services” in section 9767.1(a)(1).</p>	<p>Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: Commenter recommends the use of the word “type” instead of “specialty” to describe how physicians are supposed to be categorized when determining if access standards are met. Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.”</p> <p>Accept: The word “goods” will be added to indicate an ancillary provider may provide medical services or goods.</p>	<p>None.</p> <p>§9767.3(d)(8)(I) is revised to add the word “goods” to indicate an ancillary provider may provide medical services or goods.</p>
9767.3(d)(8)(I)	Commenter recommends the following revised language:	Lisa Anne Forsythe Senior Compliance	Accept in part: The regulatory text will be revised to clarify	§9767.3(d)(8)(I) is revised to add “If an

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>“If ancillary provider(s) are voluntarily included within the MPN application, provide a listing of the name, specialty or type of service and location of each ancillary service...”</p> <p>Alternatively commenter requests, clarification of the rules to indicate that any “ancillary service” that falls outside the scope of LC Section 3209.5 is strictly voluntary.</p> <p>Commenter opines that it is unclear whether the <i>listing</i> of the ancillary providers is voluntary, or whether their <i>very existence</i> as included services within the MPN is voluntary. Commenter opines that it is unclear exactly what is included within the scope of “ancillary services” – at a minimum, any service that falls outside Section 3209.5 of the Labor Code’s definition of “ancillary services” should be strictly voluntarily for inclusion within an MPN.</p>	<p>Consultant Coventry Workers’ Compensation Services September 30, 2013 Written Comment</p>	<p>an MPN voluntarily chooses to include ancillary services.</p> <p>Reject: Commenter’s statement is incorrect because it infers any ancillary service provider mentioned in Labor Code § 3209.5 is mandatory. This is not the case. Labor Code § 4616 states that an MPN may be established “for the provision of medical treatment to injured workers”. Labor code § 4600 describes medical treatment expansively to include all reasonably required services. Therefore, an ancillary service is any reasonably required service for the provision of medical treatment not provided by a physician.</p>	<p>MPN chooses to include ancillary services in its network.”</p> <p>None.</p>
9767.3(d)(8)(J)	<p>Commenter recommends the following revised language:</p> <p>Describe how the MPN arranges for providing ancillary services to its</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation</p>	<p>Reject: The recommended clarifications are unnecessary. An MPN would only arrange for the provision of ancillary services if the covered</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>covered <u>injured</u> 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 <del>to</del> <u>for</u> <u>authorized</u> services outside the MPN;</p> <p>Please refer to her comments regarding 9761.1(a)(25) and 9767.5(a).</p>	<p>Institute (CWCI) September 30, 2013 Written Comments</p>	<p>employee was injured and an MPN would only refer an employee to an ancillary service provider outside of an MPN if it were authorized.</p>	
9767.3(d)(8)(L)	<p>Commenter states that this section is not logical as no one can predict the type of injuries that might occur and the five most common specialties at will. Commenter questions how the five most commonly used specialties under the MPN be defined – by book of business or employer job code/category?</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Accept: The regulatory provisions will be revised to delete this requirement.</p>	<p>§9767.3(d)(8)(L) is revised to delete the requirement to list the five most common specialties based on the common injuries for workers covered under the MPN.</p>
9767.3(d)(8)(L)	<p>Commenter recommends the following revised language:</p> <p>Describe how the MPN complies with the access standards set forth in section 9767.5 for all <del>covered</del> <u>injured</u> employees. <del>In addition, from the following list, state the five most commonly used specialties based on the common injuries for workers covered under the MPN: orthopedic</del></p>	<p>Steven Suchil Assistant Vice President/Counsel American Insurance Association September 27, 2013 Written Comment</p>	<p>Accept: The regulatory provisions will be revised to delete this requirement.</p> <p>Reject: Commenter</p>	<p>§9767.3(d)(8)(L) is revised to delete the requirement to list the five most common specialties based on the common injuries for workers covered under the MPN.</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>medicine, chiropractic medicine, occupational medicine, acupuncture medicine, psychology, pain specialty medicine, occupational therapy medicine, psychiatry, neurosurgery, family medicine, neurology, internal medicine, physical medicine and rehabilitation, or podiatry. If there is a specialty not listed in this subsection that is used to treat common injuries of covered injured workers under the MPN, please and state the specialty and explain how it is one of the five most commonly used specialties types of physicians used to treat for the workers covered under the MPN;</p> <p>Commenter opines that this subsection is inconsistent with Labor Code Section 4616 (a), which states:</p> <p>The provider network shall include an adequate number and type of physicians, as described in Section 3209.3, or other providers, as described in Section 3209.5, to treat common injuries experienced by injured employees based on the type of occupation or industry in which the employee is engaged, and the geographic area where the employees</p>		<p>recommends the use of the word “type” instead of “specialty” to describe how physicians are supposed to be categorized when determining if access standards are met. Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.”</p>	

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>are employed.</p> <p>Commenter notes that this Labor Code section mentions the most common injuries, not specialties. Further, it mandates access to “type” of physician/provider as described, not “specialty”. While MPN listings should continue to identify physician specialties in order to facilitate informed choice, commenter opines that such a requirement cannot be mandated without statutory authorization.</p>			
9767.3(d)(8)(L)	<p>Commenter would like to know why physical therapy was omitted from the list in this subsection.</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: Physical Therapists are not considered physicians but rather an ancillary service provider.</p>	<p>None. Although this requirements was deleted from §9767.3(d)(8)(L).</p>
9767.3(d)(8)(L)	<p>Commenter states that the proposed subsection references the “five most commonly used specialties based on the common injuries...” Commenter states that more than one of those “top 5” categories would be filled with various types of providers that all provide a similar role of “primary treating provider”, such as occupational medicine, family</p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers’ Compensation Services September 30, 2013 Written Comment</p>	<p>Accept in part. Reject in part: The regulatory provisions will be revised to delete this requirement. The recommended changes were not adopted.</p>	<p>§9767.3(d)(8)(L) is revised to delete the requirement to list the five most common specialties based on the common injuries for workers covered under the MPN.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>medicine, internal medicine and general practitioners. Commenter opines that in order to maximize access for the injured worker, these various “primary treating provider” practitioners should be aggregated into a single a category, thus leaving the remaining 4 categories still available for other types of specialties (such as orthopedics, neurology, <i>etc.</i>)</p> <p>Commenter states that precedent also exists for this aggregation in the current HCO rules, in HCO Regulation 9779.3 (a) (3) (iv).</p> <p>Commenter requests that the Division modify the rules to add a new category of “Primary Treating Provider” that encompasses family medicine, occupational medicine, internal medicine, and general practitioners into a single category.</p>			
9767.3(d)(8)(L)	<p>Commenter recommends the following revised language:</p> <p>Describe how the MPN complies with the access standards set forth in section 9767.5 for all covered <u>injured</u> employees and state the five <u>types of physicians</u> most commonly used <u>specialties for the to treat</u> injured</p>	<p>Anita Weir, RN CRRN Director, Medical &amp; Disability Management Safeway, Inc. September 30, 2013 Written Comment And Oral Comment</p>	<p>Accept in part. Reject in part: The regulatory provisions will be revised to delete this requirement. The commenter’s recommended revised language will not be adopted.</p>	<p>§9767.3(d)(8)(L) is revised to delete the requirement to list the five most common specialties based on the common injuries for workers covered under the MPN.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>workers for the five most common <u>injuries</u> being covered under the MPN;</p> <p>Commenter questions how the identification of 5 specialists will improve access for the employee. Commenter opines that it is more important to focus on the most common injuries so the MPN can bring into play a variety of providers who could address the treatment needs and provide the required “access” to treatment -not just a quota of pre-set specialists. For example, for back injury, employee may choose chiropractic, occupational health physician, orthopedist, neurosurgeon, physiatrist, and/or, pain management specialist. Commenter notes that these same “specialists” may not suit a respiratory disease for an employee from a different work location. Commenter opines that the division should not be locked into providing the same SET of providers for each area covered in the MPN.</p> <p>Commenter references 9767.5(a) where this identification of 5 specialists sets the requirement that an MPN must have the same SET of</p>		<p>Accept in part: Section 9767.5(a) will be revised to delete the requirement to list “five commonly used specialties”</p>	<p>§9767.5(a) is revised to delete the requirement to list “five commonly used specialties listed in its application at all times.” Now there must be “at least three available” physicians to treat injured workers. If three physicians are not available, then pursuant to the revised §9767(c) “If a covered employee</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>providers in all geographic areas. Commenter opines that there is no rationale for five (5) specialties – why not 3 or 6? Commenter states that this is an arbitrary number and sets an unreasonable standard for MPNs who cover the entire state of California. Commenter states that there are hundreds of towns without 15 physicians of any type or specialty within the 30 mile access requirement. Commenter opines that this regulation will require hundreds of rural access alternate mileage requests from the DWC during the plan approval process and that the MPN’s will be constantly open to challenge of adequacy and open to penalties based on the arbitrary number of 5 required for all plan locations rather than being responsive to the individual community availability and the workers injury needs.</p>			<p>is not able to obtain from an MPN physician reasonable and necessary medical treatment within the applicable access standards in subdivisions (a) or (b) and the required time frames in subdivisions (f) and (g), then the MPN shall have a written policy permitting the covered employee to obtain necessary treatment for that injury from an appropriate specialist outside the MPN within a reasonable geographic area.”</p>
9767.3(d)(8)(L)	<p>Commenter states that the new language amending this section allows an MPN applicant to choose five specialties that it believes are the "five most commonly used specialties based on the common injuries for workers covered under the MPN." Commenter opines that the Division has not</p>	<p>Stephen J. Cattolica Director of Government Relations ADVOCAL September 30, 2013 Written and Oral Comments</p>	<p>Accept in part. Reject in part: The regulatory text will be revised to delete this requirement. The commenter’s recommended revised language will not be adopted.</p>	<p>§9767.3(d)(8)(L) is revised to delete the requirement to list the five most common specialties based on the common injuries for workers covered under the</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>demonstrated any need for this (self-serving) allowance. Nor has it established any basis for only five specialties. Commenter opines that the list could just as easily require the top three, top six or top eight. Commenter states that this unsubstantiated flexibility. in combination with the "requirement" found in Section 9767.5 -Access Standards, section (a), essentially allows an MPN to narrow the access standard found in Labor Code Section 4616 (a) &amp; (b) for its own purpose.</p> <p>Commenter states that no MPN applicant, especially an insurance carrier or TPA can predict year to year what entities it may insure or to what entities it may provide claim administration services – not to mention the mix of injuries. Commenter opines that MPN re-certifications that attempt to list a "top five" could need to modify their MPN application with each new employer it provides coverage or service. "Entities that provide network services" will be particularly prone to having issues with keeping this list current in that they may be leased or re-leased many</p>			MPN.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>times without any knowledge of the anticipated injury mix for a new leasee.</p> <p>Commenter opines that in practical application, this application requirement will be nearly impossible for the Division to administer and even harder for MPNs to avoid complaints with respect to meeting the access standard.</p>			
9767.3(d)(8)(M)	<p>Commenter recommends the following revised language:</p> <p>Describe the employee notification process, and attach an English and Spanish copy of the required <del>employee notification material</del> <u>Employee Notification, Independent Medical Review Employee Notification and Dependent Medical Review Application Form</u> <del>and information</del> to be given to <u>injured</u> covered employees.</p> <p>Commenter state that when the MPN regulations were originally adopted there was confusion over what documents were actually required to be including in the application. “Information” is vague. Commenter</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: The commenter’s recommended revised language will not be adopted because it is unnecessary. All of the documents listed are clearly described in §9767.12.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	states that naming the specific documents that must be attached will avoid confusion and delays.			
9767.3(d)(8)(P)	Commenter appreciates that the Division has retained this critical communication between an MPN and its contracted providers. Commenter looks forward to hearing from the provider community that copies of each MPN's economic profiling policy and procedure are being received. It is commenter's understanding that the complaint and penalty provisions of this Article, a complaint regarding failure to delivery an economic profiling policy could cause a review which may result in suspension or revocation of the MPN's certificate.	Stephen J. Cattolica Director of Government Relations ADVOCAL September 30, 2013 Written and Oral Comments	Accept.	None.
9767.3(d)(8)(S)	<p>Commenter recommends the following revised language:</p> <p>The MPN will provide a description of methodology used to evaluate performance regarding quality of care, utilization practices, and costs of services provided by the MPN.</p> <p>Commenter opines that to provide adequate and necessary medical treatment for the covered employee is nebulous.</p>	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment	Reject in part. Agree in part. The commenter's recommended revisions will not be adopted. Agree that the phrase "to provide adequate and necessary medical treatment for the covered employee is nebulous.	§9767.3(d)(8)(S) is revised to revised to delete the phrase "provided by the MPN are sufficient to provide adequate and necessary medical treatment for the covered employee

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.3(d)(8)(S)	<p>Commenter recommends the following revised language:</p> <p>Describe the MPN’s procedures <del>used to ensure</del> for ongoing <u>review of its</u> quality of care, <del>and how</del> performance of medical personnel, utilization of services and facilities, and costs <del>provided by the MPN are sufficient to provide adequate and necessary medical treatment for covered employees.</del></p> <p>Commenter states that the changes are recommended for clarity and accuracy and to align more closely with the requirements of Labor Code section 4616(b)(2). Commenter opines that because “sufficient” and “adequate” are vague and not defined elsewhere in California workers’ compensation, the last phrase may cause confusion and dispute, and is therefore best deleted.</p>	Brenda Ramirez Claims & Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments	Accept in part. Reject in part. Agree the terms “sufficient” and “adequate” are vague and will be deleted. The phrase “to ensure” will also be deleted and replaced.	§9767.3(d)(8)(S) will be revised to state “Describe the MPN’s procedures, criteria and how data is used to continuously review quality of care and performance of medical personnel, utilization of services and facilities, and costs.”
9767.3(d)(8)(T)	Commenter is pleased by the addition of this subsection. Commenter opines that making physicians aware of the possibilities for their practice will help them to plan accordingly.	Lishaun Francis California Medical Association September 30, 2013 Oral Comment	Accept.	None.
9767.3(e)	Commenter opines that it is not	Stephen J. Cattolica	Reject: The provider listings	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>appropriate to exempt Health Care Service Plans, Group Disability Insurance Policy(ies), or Taft-Hartley Health and Welfare Fund(s) from the requirement to provide a list of physicians, ancillary providers and especially a geocoding of their "provider listing to show compliance with the access standards for the injured workers covered by (their) MPN." Commenter state that no rationale for this exemption is found in statute or in the Division's statement of reasons.</p>	<p>Director of Government Relations ADVOCAL September 30, 2013 Written and Oral Comments</p>	<p>for Health Care Service Plans, Group Disability Insurance Policies, or Taft-Hartley Health and Welfare Funds have been certified, or licensed pursuant to other regulatory provisions. Provided that these entities maintain their regulated status, they are exempt from certain MPN requirements as stated in §9767.3(e).</p>	
9767.4	<p>Commenter recommends the following revised language:</p> <p>1.MPN Applicant Name (Parent Company)    Parent TIN Address</p> <p>Eligibility Status of MPN Applicant – all participants must be the same type of Status. Only select one that applies to all participants listed below:</p> <p><input type="checkbox"/> Self-Insured Employer    <input type="checkbox"/> Insurer (including CIGA, SISF) <input type="checkbox"/> Group of Self-Insured Employers</p> <p>    <input type="checkbox"/> Joint Powers Authority</p> <p>    <input type="checkbox"/> State</p> <p><input type="checkbox"/> Entity that provides physician</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: To make the distinction between “Parent” and “Participant” is incorrect. The only MPN Applicant that can be submitted with multiple insurers or self-insured employer clients will be those filed and approved by an entity that provides physician network services. Insurer or employer MPN Applicant’s may only cover themselves and their affiliates or subsidiaries must file separately or be covered under an MPN filed and approved as an entity that provides</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>network services</p> <ol style="list-style-type: none"> <li>1. Participant Legal Name:  Participant TIN</li> <li>2. Participant Legal Name:  Participant TIN</li> <li>3. Participant Legal Name:  Participant TIN</li> </ol> <p>Legal_Name of MPN – applies to all participants</p>		physician network services.	
9767.4	<p>Commenter notes the selections in number 4. Eligibility Status of MPN Applicant, of the cover page:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Self-Insured Employer</li> <li><input type="checkbox"/> Insurer (including CIGA, SISF)</li> <li><input type="checkbox"/> Group of Self-Insured Employers</li> <li><input type="checkbox"/> Joint Powers Authority</li> <li><input type="checkbox"/> State</li> <li><input type="checkbox"/> Entity that provides physician network service</li> </ul> <p>Commenter opines that these categories are unclear and confusing. The definition for “Insurer” in Section 9767.1 includes the insurer, CIGA,</p>	<p>Steven Suchil Assistant Vice President/Counsel American Insurance Association September 27, 2013 Written Comment</p>	<p>Accept in part. Reject in part. This form will be revised to clarify the confusing choices for item #4, Eligibility Status of MPN Applicant. The box for State remains because it will be chosen by State Agencies that have an MPN.</p>	<p>Item#4 will be revised to delete the separate box for Self Insurer Security Fund. The acronym for Self Insurer Security Fund, “SISF” will be deleted from the box for Insurer and transferred to the box for Self-Insured Employer. SCIF will be added to the box for Insurer.</p>

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	and SCIF, but the form includes SISF and not SCIF. While other entities are combined under the Insurer category, as provided above in the form, the Self Insured Employer, Group of Self Insured Employers, SISF and Joint Powers, all of which are included under the Section 9767.1 definition of "Employer" are listed separately. Third Party Administrators are absent, and it is unclear on what "State" represents.			
9767.4	<p>Commenter recommends adding the phrase "if available" after "MPN Website Address," Item 8 of the Cover Sheet.</p> <p>Commenter states that not all MPNs have designated websites for the MPN.</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: Pursuant to Labor Code section 4616(a)(4), commencing January 1, 2014 MPN's are required to have an Internet Web site address.</p>	<p>None.</p>
9767.4	<p>Commenter recommends the following revised language:</p> <p>"4. Eligibility Status of MPN Applicant  <input type="checkbox"/> Self-Insured Employer <input type="checkbox"/> Insurer  (including CIGA, <u>SISF State Compensation Insurance Fund</u>)</p> <p>Commenter states that the selection of</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief</p>	<p>Accept: The form will be revised.</p>	<p>Item#4 will be revised to delete SISF and add SCIF after the box for Insurer.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	MPN Applicant status eligibility types (item 4) is erroneous, as “insurer” is defined in section 9767.1(13) to include CIGA and the State Compensation Insurance Fund, but not SISF.	Counsel State Compensation Insurance Fund September 30, 2013 Written Comment		
9767.4	<p>Commenter recommends the following revised language:</p> <p>"Submit an original Cover Page for Medical Provider Network Application or <u>Application for Reapproval</u> with original signature, a complete application and copy of the complete application and cover page in word-searchable PDF format on a computer disk, CD ROM, or flash drive to the Division of Workers' Compensation. Mailing address: DWC, MPN Application, P.O. Box 71010, Oakland, CA 94142."</p> <p>Commenter opines that since the title of the cover page has been changed to include Application for Reapproval, that the instructions should incorporate this for consistency.</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	Accept in part. Reject in part. The instructions for this form will be revised. However, the suggested revision to add Application for Reapproval will not be adopted.	The form instructions will be revised to include “or Plan for Reapproval” to match the revised form name.
9767.4	<p>Commenter recommends the following revised language:</p> <p>8. MPN Website Address (<u>if</u></p>	Kathleen Bissell Liberty Mutual Insurance Company September 30, 2013	Reject: Pursuant to Labor Code section 4616(a)(4), commencing January 1, 2014 MPN's are required to have an	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
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	available): _____	Written Comment	Internet Web site address.	
9767.4	<p>Commenter recommends the following revised language:</p> <p>1. <del>Legal</del> Name of MPN Applicant _____</p> <p>Commenter opines that “legal” is not necessary here and because its intended meaning is not clear it will cause confusion and disputes. Commenter opines that if the word remains, its intended meaning must be clarified.</p> <p>4. Eligibility Status of MPN Applicant</p> <p><input type="checkbox"/> Self-Insured Employer</p> <p><input type="checkbox"/> Insurer (including CIGA, <del>SISF</del> <u>State Fund</u>)</p> <p><input type="checkbox"/> Group of Self-Insured Employers</p> <p><input type="checkbox"/> Joint Powers Authority</p> <p><input type="checkbox"/> State</p> <p><input type="checkbox"/> <u>Self-Insurer Security Fund</u></p> <p><input type="checkbox"/> <u>TPA</u></p> <p><input type="checkbox"/> Entity that provides physician network services</p> <p>Commenter states that section</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: Legal name of MPN Applicant is required because that is what DWC will use to confirm eligibility status.</p> <p>Accept. The form will be revised.</p> <p>Reject: Self-Insurer Security Fund will be deleted and transferred to the box for “Self-Insured Employer”. If a TPA files an MPN Application</p>	<p>None.</p> <p>Item#4 will be revised to delete SISF and add SCIF after the box for Insurer.</p> <p>Item#4 will be revised to delete the separate box for Self Insurer Security Fund. The acronym</p>

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	9767.1(13) includes CIGA and the State Compensation Insurance Fund, but not Self-Insurer Security Fund in the definition of “Insurer.” See her comments on MPN Applicant in section 9767.1(a)(19) regarding TPAs.		they may do so as an Entity that provides physician network services.	for Self Insurer Security Fund, “SISF” will be deleted from the box for Insurer and transferred to the box for Self-Insured Employer.
9767.5	<p>Commenter states that this section contains several provisions detailing the type of services that an MPN must make available to an injured worker, geographic constraints, <i>etc.</i></p> <p>Commenter states that what is not included is a process by which the MPN can furnish an injured worker with access to care <i>outside</i> of the MPN when unanticipated and exigent circumstances arise which would prevent the injured worker from being able to access one of the MPN’s previously-designated providers.</p> <p>Examples of “exigent circumstances” may include any of the following: the provider’s death, termination, retirement, illness, and/or a provider’s practice becoming temporarily full (such as may occur if the practice is temporarily impacted due to a sudden influx of patients, or in the wake of the Affordable Health Care Act).</p> <p>Commenter notes that the exigent</p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers’ Compensation Services September 30, 2013 Written Comment</p>	<p>Accept in part. Reject in part. The regulatory text pertaining to Access Standards will be revised to account for situations when out-of-MPN network treatment should be permitted. The suggested language to use the term “exigent circumstances” will not be adopted.</p>	<p>A revision was made to add §9767.5(c) “If a covered employee is not able to obtain from an MPN physician reasonable and necessary medical treatment within the applicable access standards in subdivisions (a) or (b) and the required time frames in subdivisions (f) and (g), then the MPN shall have a written policy permitting the covered employee to obtain necessary treatment for that injury from an appropriate specialist outside the MPN within a reasonable</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>circumstances situation outlined could theoretically result in an MPN being subjected to administrative fines/penalties under Section 9767.19</p> <p>Commenter requests that the Division modify the proposed rules to permit an MPN, when faced with exigent circumstances, to allow an injured worker to treat outside the MPN temporarily <i>without imposition of a penalty to the MPN</i>. Commenter opines that the MPN should be given a reasonable timeframe (such as 60 days) from receipt of notification of the access gap to add additional providers to the area or redefine the area per the alternative access standards. Commenter states that section 9767.19 should also be modified to prevent an MPN from exposure to potential fines/penalties associated with exigent circumstances, assuming that the MPN provides reasonable notice to potential injured workers that a particular provider's practice is temporarily unavailable (such as using a directory flag in the provider directory).</p>		<p>Accept in part. Reject in part. §9767.19 will be revised to make clear an MPN has not violated access standards if they allow an injured employee to obtain out of MPN network treatment if the injured employee is not able to obtain from an MPN physician reasonable and necessary medical treatment within the applicable access standards set forth in the revised subdivisions 9767.5(a) through (c).</p>	<p>geographic area.”</p> <p>§9767.19(a)(3)(C) is renumbered to 9767.19(a)(2)(C) and is revised to state “Failure to meet the access standards as required by sections 9767.5(a) through (c).</p>
9767.5	Commenter states that the newly amended language to this section	Stephen J. Cattolica Director of	Reject in part. Accept in part. Although DWC disagrees with	§9767.5(a) is revised to delete the

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>essentially allows an MPN to narrow the access standard found in Labor Code Section 4616 (a) &amp; (b) for its own purpose. Commenter opines that there is no authority given to the Administrative Director or any proven need for this flexibility. Commenter states that no MPN applicant, especially an insurance carrier or TPA can predict year to year what entities it may insure or to what entities it may provide claim administration services – not to mention the mix of injuries. Commenter opines that MPN re-certifications that attempt to list a "top five" could need to modify their MPN application with each new employer it provides coverage or service. "Entities that provide network services" will be particularly prone to having issues with keeping this list current in that they may be leased or re-leased many times without any knowledge of the anticipated injury mix for a new leasee.</p> <p>Commenter opines that in practical application, this application requirement will be nearly impossible for the Division to administer and even harder for MPNs to avoid</p>	<p>Government Relations ADVOCAL September 30, 2013 Written and Oral Comments</p>	<p>the commenter’s statement that the amended language allows an MPN to narrow the access standard for its own purposes, nonetheless, this section will be revised, in part, because of the subsequent reasons given by the commenter. Listing the five most commonly used specialties will no longer be required. The revisions will tighten the regulatory access standards and clarify that if an injured worker is unable to obtain from an MPN physician reasonable and necessary medical treatment within the applicable distance and time frame requirements but the MPN allows out-of-MPN network treatment, then access standards are not violated. .</p>	<p>requirement to list “five commonly used specialties listed in its application at all times.” Now there must be “at least three available” physicians to treat injured workers. If three physicians are not available, then pursuant to the revised §9767(c) “If a covered employee is not able to obtain from an MPN physician reasonable and necessary medical treatment within the applicable access standards in subdivisions (a) or (b) and the required time frames in subdivisions (f) and (g), then the MPN shall have a written policy permitting the covered employee to obtain necessary treatment for that</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	complaints with respect to meeting the access standard.			injury from an appropriate specialist outside the MPN within a reasonable geographic area.”
9767.5(4)(h)	<p>Commenter states that she has been managing and administering HCOs and MPNs for over 10 years. Commenter estimates that there are only about 5 calls per year that come in on a Saturday or Sunday from injured workers looking for assistance. Commenter opines that having staff up for <u>‘at a minimum from Monday through Saturday, from 7 a.m. to 8 p.m., Pacific Standard Time’</u> is not only expensive, be is also out of proportion to the historically demonstrated need. Commenter states that if the Medical Access Assistant is charged with contacting provider offices during regular business hours to schedule, then in order to comply with this, they would be hiring a bilingual person to take messages. Commenter would like to know why they can’t mirror the provision contained in the MPN regulations that a person can leave a message and have someone answer their request on the following business day.</p>	Margaret Wagner Signature Networks Plus, Inc. September 30, 2013 Written and Oral Comments	Reject: This is a statutory requirement. Labor Code §4616(a)(5) states “Medical access assistants shall have a toll-free telephone number that injured employees may use and shall be available at least from 7 a.m. to 8 p.m. Pacific Standard Time, Monday through Saturday.”	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.5(a)	<p>Commenter recommends the following revised language:</p> <p>A MPN must have at least three physicians of the most commonly used specialties to treat occupational injuries and illnesses available within the access standards set forth in (b) and (c).</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject. This language will not be adopted although revisions to the regulatory access standards section will be made (see above response and action provided to Stephen J. Cattolica’s comments).</p>	<p>None.</p>
9767.5(a)	<p>Commenter recommends the following revised language:</p> <p>(a) A MPN must have at least three <del>available</del> physicians of each <del>specialty type who are</del> <u>available at reasonable times</u>, to treat common injuries experienced by injured employees based on the type of occupation or industry in which the employee is engaged and within the access standards set forth in (b) and (c). An MPN shall meet the access standards for the five common <del>injuries/conditions commonly used specialties</del> listed in its application <del>at all times during the course of the approval period.</del></p> <p>Commenter states that the meaning of “available”, and what qualifies as</p>	<p>Steven Suchil Assistant Vice President/Counsel American Insurance Association September 27, 2013 Written Comment</p>	<p>Reject: The word “available” is common and means able to be used. Clarification will be provided in revised §9767.5(c) to make it clear when an MPN fails to have an “available” physician.</p>	<p>§9767.5(c) is revised to clarify when an MPN fails to have an available physician, “If a covered employee is not able to obtain from an MPN physician reasonable and necessary medical treatment within the applicable access standards in subdivisions (a) or (b) and the required time frames in subdivisions (f) and (g)”.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>“available”, is not clear. The added language, which is also used in Labor Code Section 4616 (a)(2), and in Section 9767.1 (a)(12), is more descriptive.</p> <p>Commenter refers to his comments for Section 9767.1 (a)(25)(C) regarding the change from “specialty” to “type”.</p> <p>Commenter opines that another uncertainty involves the use of “at all times” in the last sentence. This could be read to mean twenty four hours a day, seven days a week. Commenter states that this would impose an unreasonable, if not impossible standard, for Subsection (c).</p>		<p>Reject: Commenter recommends the use of the word “type” instead of “specialty” to describe how physicians are supposed to be categorized when determining if access standards are met. Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.”</p> <p>Agree: This provision will be deleted.</p>	<p>None.</p> <p>§9767(a) is revised to delete “at all times”.</p>
9767.5(a)	<p>Commenter strongly recommends that the division delete the requirement that the MPN meet access standards “for the five most commonly used specialties listed in the MPN application at all times.”</p> <p>Commenter opines that adoption of this rule could have unintended consequences that would have a devastating impact on injured employees. Under this rule an MPN</p>	<p>California Applicants’ Attorneys Association September 29, 2013 Written Comment</p> <p>Mark Gearheart Board of Directors California Applicants’ Attorneys</p>	<p>Agree: The regulatory text will be revised to delete this requirement.</p>	<p>§9767.5(a) is revised to delete the requirement to list “five commonly used specialties listed in its application at all times.” Now there must be “at least three available” physicians to treat injured workers. If three physicians are</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>could design its physician roster to meet the minimum standard, selecting three physicians in just five specialties but only a single physician in all other specialties. Commenter states that this would be a clear violation of the intent of the Legislature in establishing MPNs. For example, the injured employee's right to select a different treating physician within the MPN would be meaningless if the MPN has but a single physician in the appropriate specialty. Similarly, the right of the employee to select another MPN physician for a second and third opinion is meaningless if there is no second or third physician in the MPN.</p> <p>Commenter states that there is nothing in SB 863 that requires adoption of this rule. Commenter opines that this change offers no advantages to the system, but does result in significant disadvantages.</p>	<p>Association Oral Comment September 30, 2013</p>		<p>not available, then pursuant to the revised §9767(c) “If a covered employee is not able to obtain from an MPN physician reasonable and necessary medical treatment within the applicable access standards in subdivisions (a) or (b) and the required time frames in subdivisions (f) and (g), then the MPN shall have a written policy permitting the covered employee to obtain necessary treatment for that injury from an appropriate specialist outside the MPN within a reasonable geographic area.”</p>
9767.5(a)	<p>Commenter recommends the following revised language:</p> <p>(a) A MPN must have at least three <b>available</b> physicians of each <b>type</b></p>	<p>Jeremy Merz California Chamber of Commerce</p> <p>Jason Schmelzer</p>		

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><b>specialty expected</b> to treat common injuries experienced by injured employees based on the type of occupation or industry <b>as listed in the application</b> in which the employee is engaged and within the access standards set forth in (b) and (c). <del>An MPN shall meet the access standards for the five commonly used specialties listed in its application at all times.</del></p> <p>Commenter opines that the access standards proposed in this section lack statutory authority and exceed the access standards of provider networks used by disability insurers. There is no compelling rationale for heightening these standards for MPNs in the workers' compensation system. Commenter opines that this section should be amended to harmonize the proposed access standards to those required for disability policies in CCR, Title 10, section 2240.1.</p>	<p>California Coalition on Workers' Compensation September 30, 2013 Written Comment</p>	<p>Reject: Commenter recommends the use of the word "type" instead of "specialty" to describe how physicians are supposed to be categorized when determining if access standards are met. Labor Code §4616.3(d)(1) states, "Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician's <b>specialty</b> or recognized expertise in treating the particular injury or condition in question."</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.5(a)	<p>Commenter recommends the following revised language:</p> <p><b>(a) A MPN must have at least three <u>available</u> physicians of each specialty <del>expected</del> to treat common injuries experienced by injured employees based on the type of occupation or industry in which the employee is engaged and within the access standards set forth in (b) and (c). <u>An MPN shall meet the access standards for the five commonly used specialties listed in its application at all times.</u></b></p> <p>Commenter suggests removing the word “available” as this description is a bit vague. Commenter questions what makes a physician unavailable? Is it when the provider doesn’t have an opening or simply no longer practices? Commenter suggests removing the “at all times” wording as it is overly</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: The word “available” is common and means able to be used. Clarification will be provided in revised §9767.5(c) to make it clear when an MPN fails to have an “available” physician.</p>	<p>9767.5(c) is revised to clarify when an MPN fails to have an available physician, “If a covered employee is not able to obtain from an MPN physician reasonable and necessary medical treatment within the applicable access standards in subdivisions (a) or (b) and the required time frames in subdivisions (f) and (g)”.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>restrictive. Commenter opines that there could be a situation when a provider is unable to see patients, e.g. emergency situations, but his/her practice is still open and accepting patients. In situations such as these, the injured worker is protected as out of network treatment would be authorized. Commenter opines that the existing wording clearly addresses the required access standard while ensuring injured workers have access to medical care.</p>			
9767.5(a)	<p>Commenter recommends the following revised language:</p> <p>“A MPN must have at least three <del>available</del> <u>expected</u> physicians of each specialty to treat common injuries experienced by injured employees based on the type of occupation or industry in which the employee is engaged and within the access standards set forth in (b) and (c). An MPN shall meet the access standards for the five commonly used specialties listed in its application <del>at all times.</del>”</p> <p>Commenter states that the proposed all-time availability of the five commonly used specialties to meet the access</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>Agree: The regulatory text will be revised to delete this requirement.</p>	<p>§9767.5(a) is revised to delete the requirement to list “five commonly used specialties listed in its application at all times.” Now there must be “at least three available” physicians to treat injured workers. If three physicians are not available, then pursuant to the revised §9767(c)</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	standards is overly broad and unrealistic. Providers opt in or out of a network with little or no notice; the number of available providers can change suddenly and significantly.			
9767.5(a)	<p>Commenter recommends the following revised language:</p> <p><del>An MPN must have at least three available</del> <u>shall include physicians primarily engaged in the treatment of occupational injuries, and physicians of each specialty type described in Labor Code Section 3209.3 to treat common injuries experienced by injured employees based on the type of occupation or industry in which the employee is engaged and within the access standards set forth in (b) and (c). An MPN shall meet the access standards for the five most commonly used specialties-injuries listed in its application at all times.</u></p> <p>Commenter states that CCR, Title 10, section 2240.1(c) addresses time/distance provider network access standards that the Insurance Commissioner requires for disability policies and agreements. Those standards require <b>“primary care</b></p>	Brenda Ramirez Claims & Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments	Reject: MPN access standard distance and time requirements will be clarified in the revised regulatory text.	§9767.5(a) is revised to delete the requirement to list “five commonly used specialties listed in its application at all times.” Now there must be “at least three available” physicians to treat injured workers. If three physicians are not available, then pursuant to the revised §9767(c) “If a covered employee is not able to obtain from an MPN physician reasonable and necessary medical treatment within the applicable access standards in subdivisions (a) or

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><b>network providers with sufficient capacity to accept covered persons within 30 minutes or 15 miles of each covered person’s residence or workplace,” and “medically required network specialists who are certified or eligible for certification by the appropriate specialty board with sufficient capacity to accept covered persons within 60 minutes or 30 miles of a covered person’s residence or workplace.”</b> Primary care physician is defined in CCR, Title 10, section 2240(k) as <b>"a physician who is responsible for providing initial and primary care to patients, for maintaining the continuity of patient care or for initiating referral for specialist care. A primary care physician may be either a physician who has limited his practice of medicine to general practice or who is a board-certified or board-eligible internist, pediatrician, obstetrician-gynecologist or family practitioner.”</b></p> <p>Commenter opines that there is no necessity for workers’ compensation provider network time/distance access standards to exceed or differ from</p>			<p>(b) and the required time frames in subdivisions (f) and (g), then the MPN shall have a written policy permitting the covered employee to obtain necessary treatment for that injury from an appropriate specialist outside the MPN within a reasonable geographic area.”</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>those required by the Insurance Commissioner for provider networks used by disability insurers, and there is no statutory requirement for an MPN to include <u>three</u> physicians within the time/distance access standards. Commenter notes that a group disability insurance policy pursuant to Labor Code section 4616.7(c) is deemed an approved MPN. Commenter recommends basing the MPN time/distance access standards to those that apply to provider networks used by disability insurers.</p> <p>Commenter opines that it is not clear what is meant by “available physician.” If the term remains, commenter opines that it will generate unnecessary disputes over whether or not a physician is “available.”</p> <p>Please refer to her comment on section 9767.1(a)(25) regarding physician specialty.</p> <p>Commenter recommends moving the reference to providers of occupational health services to this subdivision (a) from subdivision (c) since the specific access standards are required only for</p>		<p>Reject: The word “available” is common and means able to be used. Clarification will be provided in revised §9767.5(c) to make it clear when an MPN fails to have an “available” physician.</p> <p>Reject: Disagree with commenter’s definition of “type” of physician. As mentioned in above response, Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent</p>	<p>§9767.5(c) is revised to clarify when an MPN fails to have an available physician, “If a covered employee is not able to obtain from an MPN physician reasonable and necessary medical treatment within the applicable access standards in subdivisions (a) or (b) and the required time frames in</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>the physician types described in Labor Code section 3902.3.</p> <p>Commenter states that Labor Code section 4616(a) requires an adequate number and type of physician to treat common injuries. The most common California workers' compensation injuries in 2010, 2011 and 2012 identified in CWCI's ICIS database are listed in Table A in frequency order. (Table A is included in commenter's formal correspondence.)</p>		<p>physicians shall be based on the physician's <b>specialty</b> or recognized expertise in treating the particular injury or condition in question." In addition, a minimum of three physicians in each specialty are needed to fulfill access standards because of Labor Code §4616.3 requirements that specifically describes an injured worker's right to seek a second and third opinion from physician's in the MPN.</p>	<p>subdivisions (f) and (g)".</p> <p>None.</p>
9767.5(a)	<p>Commenter recommends the following revised language:</p> <p>An MPN must have at least three <u>available physicians primarily engaged in the treatment of occupational injuries, and</u> physicians of each <u>specialty type described in Labor Code Section 3209.3</u> to treat common injuries experienced by</p>	<p>Anita Weir, RN CRRN Director, Medical &amp; Disability Management Safeway, Inc. September 30, 2013 Written Comment and Oral Comment</p>	<p>Reject: Disagree with commenter's definition of "type" of physician. As mentioned in above response, Labor Code §4616.3(d)(1) states, "Selection by the injured employee of a treating physician and any subsequent</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>injured employees based on the type of occupation or industry in which the employee is engaged and within the access standards set forth in (b) and (c). An MPN shall meet the access standards for the five <u>most</u> commonly <del>used specialties</del> <u>injuries</u> listed in its application <del>at all times</del>.</p> <p>Please refer to her comments regarding <b>9767.3 (d)(8)(L)</b>.</p> <p>Commenter recommends striking “available” as it is not clear what this term means. Commenter opines that on any day of the year a physician may take vacation, not take new patients for a period of time, have turn over in office staff, etc. which may impact being “available” at any specific phone call. Commenter states that it also makes a difference how the office staff is addressed and how the appointment request is made. Commenter questions how the DWC could possibly determine “availability”. Commenter opines that this word will be source of a lot of unnecessary and non-productive litigation and should be managed via the complaint process and the access</p>		<p>physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.” In addition, a minimum of three physicians in each specialty are needed to fulfill access standards because of Labor Code §4616.3 requirements that specifically describes an injured worker’s right to seek a second and third opinion from physician’s in the MPN.</p> <p>Reject: The word “available” is common and means able to be used. Clarification will be provided in revised §9767.5(c) to make it clear when an MPN fails to have an “available” physician.</p>	<p>§9767.5(c) is revised to clarify when an MPN fails to have an available physician, “If a covered employee is not able to obtain from an MPN physician reasonable and necessary medical treatment within the applicable access standards in subdivisions (a) or (b) and the required time frames in</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>assistants.</p> <p>Commenter requests the removal of the “specialist” designation and requests that the division use the provider type which has been used since inception of MPN legislation. Commenter requests the deletion of the phrase “at all times” for same reasons as requested for the removal of “availability.” Commenter opines that medical provider networks are fluid with many daily changes made by providers who never notify networks or payers of changes and that it is not realistic to expect that a network listing will be current on a daily basis.</p>			<p>subdivisions (f) and (g)”.</p>
<p>9767.5(a), 9767.19(3)(C), 9767.1(a)(12), 9767.14(a)(4), 9767.14(b)</p>	<p>Commenter recommends replacing the compliance requirement for the five key specialties of 'all times' for the five key specialties and penalties by service area (5K up to 50K per service area) with the ability to propose alternative access standards within the MPN filing and policy. Commenter provides the following reasons:</p> <p><i>a. Not all applicants can ensure that 3 of each of the 5 identified 'key'</i></p>	<p>Robert Mortensen, President Anthem Workers’ Compensation</p> <p>Angie O’Connell Director of Account Management &amp; MPN Services Anthem Workers’ Compensation September 30, 2013 Written Comment</p>	<p>Agree in part. Reject in part. Regulatory text will be revised to delete the requirement to list the five commonly used specialties listed in its application at all times.</p>	<p>§9767.5(a) is revised to delete the requirement to list “five commonly used specialties listed in its application at all times.” Now there must be “at least three available” physicians to treat injured workers. If three physicians are not available, then</p>

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	<p><i>specialties are available to treat the entire population of covered employees at 'all times' in all service areas or zip codes regardless of which network they use.</i></p> <p><i>b. Change the language regarding appointments within 3 days for primary treating physician and 20 days for a specialist from 'ensure' to 'make best efforts' and remove the penalty when the provider does not have available appointments within the defined timeframes and there is a healthcare shortage (see d below) and the providers that may be available within the community decline to participate in the MPN as long as the applicant allows the injured worker to treat outside the MPN per their written policy. (9767. 14.4.a and 9767. 14.4.b)</i></p> <p><i>c. The proposed regulations do not allow treatment outside the MPN, but to propose an alternative access standard, which potentially imposes an undue burden on the injured worker (i.e., may have to drive much farther away when there is a provider not in the MPN available within the</i></p>		<p>Reject: The recommended language to delete the word “ensure” and instead use the phrase “made best efforts” from §9767.5(f) and (g) will</p>	<p>pursuant to the revised §9767(c) “If a covered employee is not able to obtain from an MPN physician reasonable and necessary medical treatment within the applicable access standards in subdivisions (a) or (b) and the required time frames in subdivisions (f) and (g), then the MPN shall have a written policy permitting the covered employee to obtain necessary treatment for that injury from an appropriate specialist outside the MPN within a reasonable geographic area.”</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><i>community). Further, when accessibility changes causing a location within a service area or areas to become deficient it would then require a submission of a material modification to propose alternative standards which is subject to the 60 days the DWC has to review and approve or deny and during that period, or if denied an applicant would be subject to the penalties in section 9767. 19.3.b.</i></p> <p><i>d. Healthcare definition - The additional definition of a Healthcare shortage which states that a shortage has not been established when there is a provider in the community that is not in the MPN and the applicant is not allowed to let the injured work go outside of the MPN for treatment' penalizes the applicant when there may be a provider available in the community who chooses not to participate in an MPN (which is the provider's right to not affirm participation in an MPN and the MPN applicant cannot force the provider to participate) as 'not a healthcare shortage' and is subject to a penalty for every violation.</i></p>		<p>not be adopted.</p> <p>Reject: Accept in part. Reject in part. §9767.19 will be revised to make clear an MPN has not violated access standards if they allow an injured employee to obtain out of MPN network treatment if the injured employee is not able to obtain from an MPN physician reasonable and necessary medical treatment within the applicable access standards set forth in the revised subdivisions 9767.5(a) through (c).</p>	<p>§9767.19(a)(3)(C) is renumbered to 9767.19(a)(2)(C) and is revised to state “Failure to meet the access standards as required by sections 9767.5(a) through (c).</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.5(b)	<p>Commenter recommends the following revised language:</p> <p>A MPN must have a primary treating physician and a hospital for emergency health care services, or if separate from such hospital, a provider of all emergency health care services, within 30 minutes or 15 miles in urban and suburban counties of each covered employee’s residence or workplace.</p> <p>Commenter opines why some MPN’s are approved (like Preferred Employers) [Should this be redacted?] with including the hospital providers.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: An MPN may list physicians who provide emergency health care services and are either a primary treating physician or a specialist as well.</p>	None.
9767.5(b)	<p>Commenter recommends the following revised language:</p> <p>“(b) A MPN must have a primary treating physician <del>and a hospital for emergency health care services, or if separate from such hospital, a provider of all emergency health care services,</del> within 30 minutes or 15 miles of each covered employee's residence or workplace.”</p> <p>Commenter states that this subsection allows an MPN applicant to have a written policy for an injured employee</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>Reject: Although the commenter’s statement is correct, MPNs are not precluded from listing hospitals for emergency care services, or if separate from such hospital, a provider of all emergency health care services.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	to receive emergency health care services from a medical service or hospital provider who is not an MPN member. Commenter opines that it is no longer necessary to include this requirement in the Access Standards.			
9767.5(b)	<p>Commenter recommends the following revised language:</p> <p>(b) <del>An</del> <u>An</u> MPN must have a primary <del>treating care physician and a hospital for emergency health care services, or if separate from such hospital, a provider of all emergency health care services,</del> within 30 minutes or 15 miles of each covered employee's residence or workplace.</p> <p>Commenter opines that there is no statutory authority for specific access standards for a hospital for emergency health care services or a provider of all emergency health care services. Commenter opines that while most, if not all, MPNs include and will continue to include such facilities, there is no necessity for requiring them to be included in the access standards because subsection (j) requires <b>“a written policy to allow an injured employee to receive</b></p>	Brenda Ramirez Claims & Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments	Reject: Although the commenter's statement is correct, MPNs are not precluded from listing hospitals for emergency care services, or if separate from such hospital, a provider of all emergency health care services.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<b>emergency health care services from a medical service or hospital provider who is not a member of the MPN.”</b>			
9767.5(c)	<p>Commenter recommends the following revised language:</p> <p>A MPN must have providers that are commonly used to treat occupational injuries or illnesses and specialists within 60 minutes or 30 miles of a covered employee’s residence or workplace.</p> <p>Commenter opines that it is very difficult to have occupational specialists to meet access standards in rural areas and the suggested language reflects a “real world” definition. Commenter states that the only true occupational specialty is: Occupational Medicine (American Board of Occupational Medicine) and an Occupational Clinic.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The word “specialist” refers to physician specialists in general and not as a modifier to “occupational health services.’</p>	None.
9767.5(c)	<p>Commenter recommends the following revised language:</p> <p>(c) <u>An MPN must have a physician of each of the five most frequently used types described in Labor Code section 3209.3 to treat the five most common</u></p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013</p>	<p>Reject: Disagree with commenter’s definition of “type” of physician. As mentioned in above response, Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><del>injuries providers of occupational health services and specialists</del> within 60 minutes or 30 miles of a covered employee's residence or workplace.</p> <p>Since access standards are required only for the physician types described in Labor Code section 3902.3, commenter recommends moving the reference to providers of occupational health services to (a).</p> <p>Please refer to her comments on section 9767.1(a)(25) and 9767.5(a).</p>	Written Comments	physician and any subsequent physicians shall be based on the physician's <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.” In addition, a minimum of three physicians in each specialty are needed to fulfill access standards because of Labor Code §4616.3 requirements that specifically describes an injured worker’s right to seek a second and third opinion from physician’s in the MPN.	
9767.5(d)	<p>Commenter recommends the following revised language:</p> <p>If a MPN applicant believes that, given the facts and circumstances with regard to a portion of its service area, specifically rural areas including those in which healthcare providers or facilities are located at least 30 miles apart or in which there is a health care shortage the accessibility standards set forth in subdivisions (b) and/or (c) are unreasonably restrictive, the MPN applicant may propose alternative standards of accessibility for that portion of its service area. The MPN</p>	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment	<p>Accept in part. Reject in part. §9767.5(c) will be revised to make clear an MPN may allow out-of-MPN network treatment if distance and time requirements cannot be met.</p> <p>§9767.19 will be revised to make clear an MPN has not violated access standards if they allow an injured employee to obtain out of MPN network treatment if the injured employee is not able to obtain from an MPN physician reasonable and necessary</p>	If three physicians are not available, then pursuant to the revised §9767.5(c) “If a covered employee is not able to obtain from an MPN physician reasonable and necessary medical treatment within the applicable access standards in subdivisions (a) or (b) and the required

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>applicant shall do so by including the proposed alternative standards in writing in its plan approval application or in a notice of MPN plan modification and shall explain how the proposed standard was determined and why it is reasonable and necessary to ensure that necessary services shall be available and accessible at reasonable times to all covered employees. The MPN applicant may have a policy that allows an injured worker to seek treatment outside the MPN for specific services that are not available within the MPN for non-emergency services.</p> <p>Commenter states that he needs to analyze his network in order to determine if he needs to modify the MPN service area to identify zip codes for proposed expanded access standards.</p> <p>Commenter opines that it is physically impossible to ensure all services are available at all reasonable times.</p>		<p>medical treatment within the applicable access standards set forth in the revised subdivisions 9767.5(a) through (c).The regulatory provisions will be revised to clarify.</p>	<p>time frames in subdivisions (f) and (g), then the MPN shall have a written policy permitting the covered employee to obtain necessary treatment for that injury from an appropriate specialist outside the MPN within a reasonable geographic area.”</p> <p>§9767.19(a)(3)(C) is renumbered to 9767.19(a)(2)(C) and is revised to state “Failure to meet the access standards as required by sections 9767.5(a) through (c).</p>
9767.5(d)	<p>Commenter notes that this subdivision is revised to require an MPN applicant to provide an explanation of how an alternative access standard was developed. If this rule is to be</p>	<p>California Applicants’ Attorneys Association September 29, 2013</p>	<p>Accept: The regulatory text will be revised to clarify the alternative access standard will be reviewed and must be approved by the</p>	<p>§9767.5(d) is re-lettered to §9767.5(b) and is revised to state “and shall be reviewed and</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>continued in its current form, commenter supports this proposed change. Commenter opines that the rule creates major problems and that the rule should be extensively revised.</p> <p>As this rule currently reads, the MPN applicant may propose alternative access standards, but there is no requirement for the Division to take any action regarding that proposed standard. Commenter states that unless the division either approves or disapproves the proposed standard, neither the MPN applicant nor the injured employees covered by that MPN know exactly what access standard is applicable - the general rule as set forth in regulations or the proposed alternative access standard.</p> <p>Commenter states that another problem raised by this rule is that it permits different MPNs to have entirely different access standards. Commenter does not believe that different MPNs should have different access standards. Commenter opines that if there is evidence that certain areas of the state are under-served, the Division should identify those areas</p>	Written Comment	<p>Administrative Director before it can be used</p> <p>Reject: Labor Code §4616(a)(2) requires the Administrative Director to consider the special needs of rural areas and areas in which there is a health care shortage. §9767.5(b) sets forth the process in which the needs of those areas can be meet. An MPN will need to show clear</p>	<p>approved by the Administrative Director before the alternative standard can be used.”</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	and promulgate fair access standards for the conditions existent in those areas. Commenter opine that in the absence of clear evidence of a shortage of physicians in a certain area, a MPN should not be permitted to establish more restrictive access standards simply because it chooses not to select qualified physicians to join its network.		evidence that an area qualifies as a rural area or in which there is a health care shortage before DWC approves an alternative access standard.	
9767.5(d)	<p>Commenter recommends the following revised language:</p> <p><u>(d) If an MPN applicant is unable to meet the network access standard(s) required by this section due to the absence of physicians willing to treat workers' compensation injuries located within sufficient geographic proximity to covered employees, the MPN applicant may propose an alternative mileage standard in its application or may specify that the injured covered employee may select a physician of that type outside the MPN within a reasonable geographic area. Such a proposal shall include, at a minimum, a description of the affected area and covered employees in that area, how the applicant determined the absence of practicing</u></p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject in part. Agree in part. The language suggested by commenter will not be adopted. The regulations addressing alternative access standards already allow the MPN to do the things suggested by the commenter. Revisions will be made the regulatory text regarding access standard to clarify the alternative access standards and to allow an MPN to permit out-of-MPN network coverage if there are no available MPN physicians.</p>	<p>§9767.5(c) is revised to state "If a covered employee is not able to obtain from an MPN physician reasonable and necessary medical treatment within the applicable access standards in subdivisions (a) or (b) and the required time frames in subdivisions (f) and (g), then the MPN shall have a written policy permitting the covered employee to obtain necessary</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><u>providers, and how the proposal will ensure the availability of treatment for injured covered employees who work and reside in that area.</u></p> <p>Commenter states that LC section 4616(a)(2) specifies that medical treatment for injuries must be available and accessible <u>to the extent feasible</u> at reasonable times to all covered employees. This proposed alternative language is based on language in CCR, Title 10, section 2240.1(c)(7). Commenter opines that the MPN time and distance access standards language should parallel, to the extent feasible, to the language of section 2240.1’s time and distance access standards. Commenter opines that it is reasonable for the MPN applicant to propose either an alternative mileage standard or to permit the injured employee to select a physician of that type outside the MPN within a reasonable geographic area.</p>			<p>treatment for that injury from an appropriate specialist outside the MPN within a reasonable geographic area.”</p>
9767.5(d) – suggested new subsection	<p>Commenter recommends the following new subsection:</p> <p><u>(d) Notwithstanding (b) and (c), these requirements are not intended to</u></p>	Brenda Ramirez Claims & Medical Director California Workers’ Compensation	Reject: Disagree with commenter’s definition of “type” of physician. As	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><u>prevent the injured employee from selecting from the nearest three physicians of that type in the network, or selecting physicians as allowed by their network beyond the applicable geographic area specified by these standards.</u></p> <p>Commenter states that this recommended subsection is adapted from the language in CCR, Title 10, section 2240.1(c)(6). Commenter opines that this will ensure that injured employees have a choice of at least three physicians of that type.</p> <p>Commenter notes that if this new subsection is inserted here subsequent subdivisions (d) through (j) must be re-alphabetized.</p>	<p>Institute (CWCI) September 30, 2013 Written Comments</p>	<p>mentioned in above response, Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s <b>specialty</b> or recognized expertise in treating the particular injury or condition in question.” In addition, a minimum of three physicians in each specialty are needed to fulfill access standards because of Labor Code §4616.3 requirements that specifically describes an injured worker’s right to seek a second and third opinion from physician’s in the MPN.</p>	
9767.5.1(e)	<p>Commenter recommends the following revised language:</p> <p><b><u>(e) The MPN applicant must ensure that all physician acknowledgments are readily available for review upon request by the Administrative Director.</u></b></p> <p>Commenter states that in many cases the MPN Applicant has no</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: The commenter separates MPNs from MPN Applicants when they are essentially one in the same. The MPN is the entity approved by the DWC as a Medical Provider Network and the MPN Applicant is legally responsible for the MPN. In other words, the MPN Applicant is the entity that</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	involvement in the administration of the MPN. Commenter opines that this responsibility should rest with the MPN.		legally acts on behalf of the MPN. It appears the commenter is mistaking an MPN for the underlying network of physicians that may make up the MPN.	
9767.5(e)(1)	<p>Commenter recommends the following revised language:</p> <p>A) an <u>injured</u> covered employee authorized by the employer to temporarily work or travel for work outside the MPN geographic service area when the need for medical care arises;</p> <p>Commenter opines that clarification is needed that (A) applies to an <u>injured</u> covered employee.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: The recommendation is unnecessary. The word "covered employee" is appropriate because this is a policy for any covered employee traveling outside the MPN geographic service area before injury or after injury.</p>	None.
9767.5(e)(2)	<p>Commenter recommends the following revised language:</p> <p>The written policy shall <u>be for the claims administrator</u> to provide the employees described in subdivision (e)(1) above with a list of at least three physicians outside the MPN geographic service area who either have been referred <u>and properly</u></p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: Although the commenter is correct that it will likely be the claims administrator who will provide this written policy, it is a policy that must be drafted by the MPN Applicant. The additional recommendation to an "and properly reported" by the "injured" employee is</p>	None.

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>reported by the injured employee's primary treating physician within the MPN or have been selected by the MPN applicant.</p> <p>Commenter states that a list of three proposed physicians referred by the PTP can be sent only if reported.</p>		presumed.	
9767.5(e)(4)	<p>Commenter recommends the following revised language:</p> <p>Nothing in this section precludes an injured worker outside the MPN geographic service area from choosing his or her own provider for non-emergency medical care.</p> <p>Commenter opines that in many ways this can negate the purpose of the MPN and in 2014 when any person can complain an MPN was invalidly formed, definitions of service areas create a problem. Commenter state that he services are should be statewide and the MPN should provide as much coverage as possible. Commenter opines that 100% accessibility coverage is a physical impossibility.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: In the unlikely event an MPN's geographic service area does not cover an employee's residence or ER's address, then §9767.5(e)(4) will apply.</p>	None.
9767.5(e)(4)	<p>Commenter recommends the following revised language:</p>	<p>Jose Ruiz, Director Corporate Claims</p>		

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>“Nothing in this section precludes an <u>MPN applicant from having a written policy that allows a covered employee</u> outside the MPN geographic service area from choosing his or her own provider for non-emergency medical care.”</p> <p>Commenter states that the proposed removal of the words “MPN applicant from having a written policy that allows a” could be interpreted to mean that a covered employee may arbitrarily choose to treat outside of the MPN geographic service area.</p>	<p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>Reject: In the unlikely event an MPN’s geographic service area does not cover an employee’s residence or ER’s address, then §9767.5(e)(4) will apply.</p>	<p>None.</p>
9767.5(e)(4)	<p>Commenter recommends inserting the term “injured” prior to “covered employee” in this subsection.</p> <p>Commenter states that clarification is needed that (A) applies to an <u>injured</u> covered employee.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: In the unlikely event an MPN’s geographic service area does not cover an employee’s residence or ER’s address, then §9767.5(e)(4) will apply.</p>	<p>None.</p>
9767.5(e)(4)	<p>Commenter recommends that the Division eliminate place of residence of an employee as a criterion for determining access to an MPN and that the original proposed language be retained.</p>	<p>Mark E. Webb Vice President and General Counsel PacificComp September 30, 2013 Written Comment</p>	<p>Reject: In the unlikely event an MPN’s geographic service area does not cover an employee’s residence or ER’s address, then §9767.5(e)(4) will apply.</p>	<p>None.</p>



MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>as it does the geocoding requirements throughout the proposed regulations. It is assumed that virtually all MPNs base their access requirements on distance from workplace. If this proposed regulation is intended to allow an injured worker to obtain medical treatment outside the access limits from the <i>workplace</i> based upon distance from <i>residence</i>, then the Division is creating a group of injured workers who are essentially outside the MPN.</p> <p>Commenter opines that this could be even more troublesome when the policy of the MPN is required to address access to care for an injured worker who, “decides to temporarily reside outside the MPN geographic service area during recovery.” 8 CCR § 9767.5(e)(1)(C). Will this MPN policy requirement be imputed to an injured worker who decides to treat outside the MPN geographic coverage area under the new regulation? Commenter requests clarity.</p> <p>Commenter provides a detailed analysis in his complete original comment [available upon request].</p>		<p>Reject: Concerns raised by the commenter are answered by §9767.5(e)(3) which makes it clear that “the referred physicians shall be located within the access standards described in paragraphs (c) and (d) of this section.”</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.5(e)(5)	<p>Commenter recommends the following new subsection:</p> <p><u>(e)(5) Nothing in this section precludes an MPN applicant from having a written policy for an employee described in subdivision (e)(1) to choose his or her own provider or consult for non-emergency medical care.</u></p> <p>Commenter opines that it is reasonable for an MPN applicant to have a written policy for an injured employee to choose a provider outside the network for treatment or consult.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: The commenter's recommended language will not be adopted. In the unlikely event an MPN's geographic service area does not cover an employee's residence or ER's address, then §9767.5(e)(4) will apply. Agree that is reasonable for an MPN applicant to have a written policy for an injured employee to choose a provider outside the network for treatment or consult.</p>	None.
9767.5(h)	<p>Commenter recommends the following revised language:</p> <p>MPN access assistants shall be located in the United States and available to provide assistance with access to medical care under the MPN, including but not limited to contacting provider offices during regular business hours and scheduling medical appointments, at a minimum from Monday through Friday from 8 am to 5:30 pm, Pacific Time.</p> <p>Commenter states that no provider</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: This is a statutory requirement. Labor Code §4616(a)(5) states "Medical access assistants shall have a toll-free telephone number that injured employees may use and shall be available at least from 7 a.m. to 8 p.m. Pacific Standard Time, Monday through Saturday."</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>offices are open on Saturdays for MAA to schedule appointments. Commenter opines that this makes Saturday a message taking service which is no better than voice mail. Commenter states that most large groups have after hour messages that instruct callers to call back the next day during normal business hours in order to schedule an appointment.</p>			
9767.5(h)	<p>Commenter recommends the following revised language:</p> <p>(h) MPN access assistants shall be located in the United States and available to provide <del>in English or Spanish</del> employee assistance with access to medical care under the MPN, including but not limited to contacting provider offices during regular business hours and scheduling medical appointments, at a minimum from Monday through Saturday, from 7 am to 8 pm, Pacific Standard Time.</p> <p>Commenter opines that this change should be made because Labor Code Section 4616(a) does not require bilingual Access Assistants.</p>	<p>Steven Suchil Assistant Vice President/Counsel American Insurance Association September 27, 2013 Written Comment</p>	<p>Reject: MPN medical access assistants are statutorily mandated to help an injured employee find an available MPN physician. In order to properly assist and respond to injured workers' in California an MPN medical access assistant must be able to communicate either directly or through an interpreter with the injured worker.</p>	None.
9767.5(h)	<p>Commenter notes that this subdivision</p>	California	Accept in part. Reject in part.	§9767.5(h) will be

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>sets out the limited rules that apply to the new "medical access assistants" introduced in SB 863. Commenter states that when originally adopted in 2004, the MPN regulations included a requirement that each MPN establish an "MPN Contact," which was defined as "an individual(s) designated by the MPN Applicant in the employee notification who is responsible for answering employees' questions about the Medical Provider Network and is responsible for assisting the employee in arranging for an independent medical review." Those regulations also mandated that the MPN notification to employees must include information on how to get in touch with this MPN Contact - including a requirement for a toll-free number.</p> <p>Commenter opines that in theory, the "MPN Contact" should have provided much the same assistance as the newly established "medical access assistant." Commenter states that problem was that the regulations failed to provide any further guidance as to what duties and responsibilities were expected from the "MPN Contact." Given the option to do nothing, it should not be</p>	<p>Applicants' Attorneys Association September 29, 2013 Written Comment</p> <p>Mark Gearheart Board of Directors California Applicants' Attorneys Association Oral Comment September 30, 2013</p>	<p>Labor Code §4616(a)(5) and the regulatory provisions clearly requires the MPN medical access assistants help injured workers find, contact, and schedule appointments with MPN physicians. In addition, the MPN medical access assistants should be able to communicate with the injured worker or representative of the injured worker in both English and Spanish. The regulatory provisions require §9767.5(f) and (g) establish timelines to ensure assistance is provided in a timely fashion. Finally, call logs must be kept by the MPN medical access assistant to document what was communicated.</p> <p>MPN medical access assistants cannot authorize medical treatment. The regulatory text will be revised to clarify this. Other than maintaining call logs and keeping other written forms of communication such as faxes and e-mails, an MPN</p>	<p>revised to state "the employee assistance shall be available in English and Spanish. The assistance shall include but not be limited" to contacting provider offices during regular business hours and scheduling medical appointments for covered employees.</p> <p>§9767.5(f) is revised to clearly establish an MPN medical access assistant has three business days after a covered employee's notice that treatment is needed to ensure an appointment for the first treatment visit is scheduled under the MPN.</p> <p>§9767.5(g) is revised to clearly establish an MPN medical access assistant has five</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>surprising that most MPNs chose exactly that - to do nothing. Commenter opines that the MPN Contact has become nothing more than a name on the notification; as useless as a sixth toe. Commenter states that many workers trying to obtain treatment through an MPN have experienced an exercise in frustration, and the "MPN Contact" provides no practical help for them in this process.</p> <p>Commenter opines that the Division's failure to provide more guidance to the community as to the role and responsibilities of these "MPN Contacts" led directly to the Legislature's adoption of the new "Medical Access Assistant" position. Commenter opines that unless the Division adopts comprehensive rules setting out a clear description of the duties and responsibilities of these new medical access assistants, this program will likewise be a dismal failure.</p> <p>Commenter recommends that the Division create rules to specifically define the exact role of the access</p>		<p>medical access assistant is not required to send letters to all parties confirming an appointment.</p>	<p>business days after a covered employee's notice that treatment with a specialist is needed to schedule a timely medical appointment with an appropriate specialist within 20 business days.</p>

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>assistant in contacting physicians' offices and scheduling appointments, including establishment of appropriate timelines to ensure that assistance is provided in a timely manner. Often medical offices require authorization in writing to provide treatment. Medical access assistants should be required to provide written authorization for treatment to the selected MPN provider's office on the same day as scheduling the medical appointment. They should be required to communicate the appointment date, time, and location to the injured worker by telephone call and letter with a copy to the medical provider, and all parties on the case. If the selected medical provider later declines providing medical treatment or refers the injured worker to a different specialty and the medical access assistant should be required to be available in the same timeframe of one business day to schedule the next medical appointment with a different MPN provider. The medical access assistant should be required to communicate with the insurer to make sure authorization is timely given and medical reports and records are timely</p>			

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	sent. Commenter opines that these rules should also require that access assistance be available in both English and Spanish, and in any other language spoken by a significant percentage of an insured employers' employees. Commenter requests that the rules require that these medical access assistants maintain a log of all contacts and requests from covered employees, providing details on what was requested and what assistance was provided.			
9767.5(h)	<p>Commenter recommends the following revised language:</p> <p><b><u>(h) MPN access assistants shall be located in the United States and available to provide in English or Spanish if the employee speaks Spanish and requests assistance in Spanish employee assistance with access to medical care under the MPN, including but not limited to contacting provider offices during regular business hours and scheduling medical appointments, at a minimum from Monday through Saturday, from 7 am to 8 pm, Pacific Standard Time.</u></b></p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: The recommended language will not be adopted. The MPN medical access assistant must be able to communicate with the injured worker either directly or through an interpreter.</p>	<p>None.</p>
9767.5(h)	Commenter recommends the	Brenda Ramirez		

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>following revised language:</p> <p>(h) MPN access assistants shall be located in the United States and available <u>at a minimum from Monday through Saturday, from 7 am to 8 pm, Pacific Standard Time</u>, to provide <del>in</del> <del>English or Spanish</del> employee assistance with access to medical care under the MPN, including but not limited to contacting provider offices during regular business hours and scheduling medical appointments, <del>at a minimum from Monday through Saturday, from 7 am to 8 pm, Pacific Standard Time</del>.</p> <p>Commenter states that there is no statutory requirement to provide a Spanish-speaking MPN access assistant. Commenter opines that interpreter services can be provided if necessary.</p>	<p>Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: The recommended language will not be adopted. The MPN medical access assistant must be able to communicate with the injured worker either directly or through an interpreter.</p>	<p>None.</p>
9767.5(h)	<p>Commenter notes that this subsection contains references to MPN access assistants that shall be "available to provide in English or Spanish employee assistance with access to medical care." Commenter states that these rules do not specifically state whether the use of an interpreter on an</p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers' Compensation Services September 30, 2013 Written Comment</p>	<p>Reject: The recommended language will not be adopted. The MPN medical access assistant must be able to communicate with the injured worker either directly or</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>ad hoc basis would serve to meet this requirement.</p> <p>Commenter suggests that the division modify this rule to specify that provision of Spanish language MPN access assistance during specified hours may be accomplished via enlistment of a translation service when required.</p>		through an interpreter.	
9767.5(h)	<p>Commenter recommends the following revised language:</p> <p>MPN access assistants shall be located in the United States and available <u>Monday through Saturday, from 7 am to 8 pm, Pacific Standard Time</u>, to provide <del>in English or Spanish</del> employee assistance with access to medical care under the MPN, including but not limited to contacting provider offices during regular business hours and scheduling medical appointments, <del>at a minimum from Monday through Saturday, from 7 am to 8 pm, Pacific Standard Time.</del></p> <p><del>(1) There shall be one or more MPN access assistants available to respond at all required times, with the ability for callers to leave a voice message.</del></p>	<p>Anita Weir, RN CRRN Director, Medical &amp; Disability Management Safeway, Inc. September 30, 2013 Written Comment</p>		

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><del>There shall be enough assistants to respond to calls, faxes or messages by the next day, excluding Sundays and holidays.</del></p> <p><del>(2) The MPN access assistants shall also work in coordination with the MPN Contact and the claims adjuster(s) to ensure timely and appropriate medical treatment is provided to the injured worker.</del></p> <p>Commenter requests clarification that the 800# for after hour calls may be different than during business hours. Commenter states that the claims administrator and/or the MPN may provide access assistant services during regular business hours using their staff who are most familiar with the claims process and how to work with providers. Commenter opines that after business hours there is little the access assistant can do beyond collecting information from the injured employee regarding need for a medical appointment. Commenter notes that the provider cannot be reached until the next business day.</p> <p>Commenter states that there is no</p>		<p>Reject: The 800 number must be specifically stated in the request portions of the MPN Plan and notices to the injured employee.</p> <p>Reject: The MPN medical access assistants are not to function as claims adjusters.</p> <p>Reject: MPN medical access</p>	<p>None.</p> <p>§9767.5(h)(2) is revised to specify “The MPN medical access assistants do not authorize treatment and have different duties than claims adjusters. The MPN medical access assistants are not to function as claims adjusters.”</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>statutory requirement to provide Spanish-speaking staff, an interpreter can be provided if necessary. Commenter states that there is no statutory requirement to provide email, voice mail nor faxes. Commenter opines that “coordination” is a business workflow matter. Commenter opines that complaints about the access assistant process should be managed by the MPN administrator first and then rolled up to the DWC if resolution is not made.</p> <p>Commenter notes that Section 9767.12(a)(1)(A) LISTS ONLY TOLL FREE NUMBER REQUIRED</p>		<p>assistants are statutorily mandated to help an injured employee find an available MPN physician. In order to properly assist and respond to injured workers’ in California an MPN medical access assistant must be able to communicate either directly or through an interpreter with the injured worker. Also, requiring that MPN medical access assistants be available not only by telephone but via e-mail and fax, two very common means for businesses to communicate and serve its customers, is necessary to effectuate the statutory mandates.</p>	None.
9767.5(h)(1)	<p>Commenter recommends the following revised language:</p> <p>There shall be one or more MPN access assistants available to respond at all required times, with the ability for callers to leave a voice message. There shall be enough assistants to respond to calls or messages by the next day, excluding Saturdays,</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The clarification is unnecessary. DWC will use its discretion to consider mitigating factors when determining whether or not to assess penalties.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Sundays and holidays with the exception of any unusual situation that may cause an unusual increase in call volumes or affect telecommunications accessibility (including but not limited to weather related or natural disasters).			
9767.5(h)(1)	<p>Commenter recommends the following revised language:</p> <p>(h)(1) There shall be one or more MPN access assistants available to respond at all required times, with the ability for callers to leave a voice message. There shall be enough assistants to respond to calls, <del>faxes</del> or messages by the next day, excluding Sundays and holidays.</p> <p>As stated in his comments for Section 9767.3 (d)(8)(C), commenter opines that the addition of faxes is problematic and is beyond statutory authority.</p>	<p>Steven Suchil Assistant Vice President/Counsel American Insurance Association September 27, 2013 Written Comment</p>	<p>Reject: MPN Medical Access Assistants are statutorily mandated to help injured employees find available MPN physicians and schedule appointments. Requiring that MPN medical access assistants be available not only by telephone but via e-mail and fax, two very common means for businesses to communicate and serve its customers, is necessary to effectuate the statutory mandates.</p>	None.
9767.5(h)(1)	<p>Commenter opines that this section should be deleted as there is no statutory requirement for voice messaging, faxes or messages.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: MPN Medical Access Assistants are statutorily mandated to help injured employees find available MPN physicians and schedule appointments. Requiring that MPN medical access assistants be available not only by</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			telephone but via e-mail and fax, two very common means for businesses to communicate and serve its customers, is necessary to effectuate the statutory mandates.	
9767.5(h)(2)	<p>Commenter recommends the following revised language:</p> <p>The assistants shall also work in coordination with the claims adjuster(s) to ensure a timely appointment is scheduled for the type of service requested by the referring provider or claims adjuster.</p> <p>Commenter states that MAAs are not clinical staff and do not determine what is appropriate medical treatment; they are a scheduling service to facilitate appointments.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The recommended revised language is unnecessary, although other revisions will be made to §9767.5(h)(2) to clarify commenter’s point.</p>	<p>§9767.5(h)(2) is revised to specify “The MPN medical access assistants do not authorize treatment and have different duties than claims adjusters. The MPN medical access assistants are not to function as claims adjusters.”</p>
9767.5(h)(2)	<p>Commenter recommends the following revised language:</p> <p>(h)(2) The MPN access assistants shall also work in coordination with the MPN Contact and the claims adjuster(s) to ensure timely <del>and</del> <del>appropriate</del> medical treatment is <del>provided</del> <u>initiated for</u> the injured worker.</p>	<p>Steven Suchil Assistant Vice President/Counsel American Insurance Association September 27, 2013 Written Comment</p>	<p>Reject: The recommended revised language is unnecessary, although other revisions will be made to §9767.5(h)(2) to clarify commenter’s point.</p>	<p>§9767.5(h)(2) is revised to specify “The MPN medical access assistants do not authorize treatment and have different duties than claims adjusters. The MPN medical access assistants are not to</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter opines that imposing the duty to determine “appropriate” medical treatment goes far beyond the statutory mandate to “contact physician’s offices and set up appointments” provided in Labor Code 4616 (a)(5).</p>			<p>function as claims adjusters.”</p>
9767.5(h)(2)	<p>Commenter opines that this section should be deleted. Commenter opines that it is not appropriate to mandate workflow, coordination or similar matters of internal administration.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: In order to help injured worker’s schedule an appointment with an MPN physician, an MPN medical access assistant needs to communicate with the adjuster to know if the physician is appropriate.</p>	<p>None.</p>
9767.5(i)	<p>Commenter recommends the following revised language:</p> <p>The MPN, at minimum, shall meet the access standards in the five commonly used specialties listed in the MPN application. If the primary treating physician refers the injured worker to a medically indicated specialist necessary to cure or treat the effect of a work related injury or illness to a not included in the MPN, the injured worker may select a specialist from outside the MPN.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The commenter’s recommended language is unnecessary because the phrase “not included in the MPN” makes it clear the specialty is not listed in MPN provider listing. In addition, any request for treatment, if not approved by the claims adjuster can be sent to Utilization Review to determine its medical necessity.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter questions what the five commonly used specialties are. Will this vary by type of employer/client?</p>			
9767.5(i)	<p>Commenter recommends the following revised language:</p> <p>“If the primary treating physician refers the covered employee to a type of specialist not included in the MPN <del>the covered employee may select a specialist from outside the MPN.</del> <u>for treatment that is approved by the claims administrator and the network does not contain a physician who can provide the treatment, treatment by a specialist outside the MPN may be permitted on a case-by-case basis.</u>”</p> <p>Commenter opines that the proposed paragraph should clarify the other conditions permitting treatment with a specialist outside of the MPN. Commenter proposes amending the language to be more consistent with Labor Code section 4616.3(d)(2).</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>Reject: The commenter’s recommended language is unnecessary because the phrase “not included in the MPN” makes it clear the specialty is not listed in MPN provider listing. In addition, any request for treatment, if not approved by the claims adjuster can be sent to Utilization Review to determine its medical necessity.</p>	None.
9767.5(i)	<p>Commenter recommends the following revised language:</p> <p>(i) If the primary treating physician refers the <u>injured</u> covered employee for approved treatment that cannot be</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI)</p>	<p>Reject: The commenter’s recommended language is unnecessary because the phrase “not included in the MPN” makes it clear the specialty is not listed in MPN</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><del>provided by a physician within to a type of specialist not included in the MPN the treatment may be permitted on a case-by-case basis by covered employee may select a specialist from outside the MPN.</del></p> <p>Commenter opines that clarification is needed that this applies to an <u>injured</u> covered employee.</p> <p>Commenter states that the changes are recommended to conform with Labor Code section 4616.3(d)(2) which requires that treatment by a specialist outside the MPN must be approved, and must be treatment that cannot be provided by a physician in the MPN. Labor Code section 4616.3(d)(2) says: <b>“Treatment by a specialist who is not a member of the medical provider network may be permitted on a case-by-case basis if the medical provider network does not contain a physician who can provide the approved treatment and the approved treatment is approved by the employer or insurer.”</b></p>	<p>September 30, 2013 Written Comments</p>	<p>provider listing. In addition, any request for treatment, if not approved by the claims adjuster can be sent to Utilization Review to determine its medical necessity.</p>	
9767.5(j)	<p>Commenter recommends deleting the term “employee” and substituting it with the term “worker.”</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013</p>	<p>Reject: Unnecessary “employee” and “worker” are synonymous.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
		Written Comment		
9767.5.1	<p>Commenter is concerned with the reimbursement process. When MPN's were first introduced, reimbursement to providers was incorrectly withheld because payors, for various reasons, could not identify the provider's as being "in network". Commenter has similar concerns related to the acknowledgment process in that payors may withhold reimbursement if a provider does not have their written acknowledgment on hand.</p> <p>Provider's also use various tax id's (FEIN numbers) by which to bill their services and the lack of physician acknowledgments if payors do not find provider's under another tax identification should not be reason to delay or deny reimbursement.</p> <p>Commenter requests that the DWC insert clear language that written Physician Acknowledgments or the lack thereof shall not in any way impact timely reimbursement to providers.</p>	Joe Martinez CBO Director Concentra Medical Centers	Reject: The commenter's suggestions regarding the timeliness of reimbursement between the payor and providers go beyond the scope of the MPN regulatory provisions.	None
9767.5.1	Commenter has concerns regarding this section addressing physician	Kimberly Riddle Networks by Design	Reject. Labor Code §4616(a)(3) physician's need	§9767.5.1(f) is added to state, "Any form

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	<p>acknowledgements. Specifically the requirement that the physician sign an amendment on each year on the anniversary date. Commenter's organization has contracts that are evergreen. Commenter is concerned that it would be fatal to MPN's if they have to rely on physicians with very busy practices to timely comply with this request.</p> <p>Commenter recommends that the division allow the physician to remain in the MPN as long as the MPN has performed their due diligence by sending out the acknowledgement to the physician.</p>	September 30, 2013 Oral Comment	to "affirmatively" elect to be in an MPN. Although commenters concerns are well-taken, merely sending physician acknowledgments to physician is not enough. A revision will be made to allow a physician to opt in or to opt out of each MPN.	that presents more than one MPN for the physician's acknowledgment shall enable the physician either to opt in or to opt of each MPN.
9767.5.1(a)	<p>Commenter recommends the following revised language:</p> <p>Each physician that is in private practice and not part of a medical group and is selected by the Applicant to be in an MPN shall have a written or electronic acknowledgement to participate in that MPN or to have a written or electronic process to opt out of the MPN if they so desire, unless the physician is a shareholder, partner or employee of a medical group that elects to be part of an MPN.</p>	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment	Accept in part. Reject in part: The commenter's recommendation to allow a physician to opt in or to opt out of an MPN will be adopted. Physician acknowledgments will not apply to ancillary services providers such as PT's. However, acupuncturists and chiropractors are considered physicians and not ancillary service providers.	§9767.5.1(f) is added to state, "Any form that presents more than one MPN for the physician's acknowledgment shall enable the physician either to opt in or to opt of each MPN.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter questions if this only applies to physicians and not acupuncturists, chiropractors, PT's etc. Do all ancillary providers as defined in 3209.5 don't require affirmations? Commenter would like to know this in reference to (a) through (d) of this section.</p>			
9767.5.1(a)	<p>Commenter recommends the following revised language:</p> <p>(a) Each physician, as defined in Labor Code section 3209.3, in an MPN shall <del>have</del> <u>provide</u> a written acknowledgment to participate in that MPN unless the physician is a shareholder, partner or employee of a medical group that elects to be part of an MPN.</p>	<p>Steven Suchil Assistant Vice President/Counsel American Insurance Association September 27, 2013 Written Comment</p>	<p>Reject: The physicians sign physician acknowledgments but it's the MPN that provides it to the DWC upon request.</p>	None.
9767.5.1(a)	<p>Commenter recommends the wording be amended to conform to the authorizing statute, Labor Code section 4616(a)(3), which requires that each physician provide a written acknowledgment in which the physician affirmatively elects to be a member of the network.</p> <p>Commenter opines that the introduction of this written</p>	<p>California Applicants' Attorneys Association September 29, 2013 Written Comment</p>	<p>Reject: The regulatory text commented on and the proposed revisions, conform to the authorizing statute, Labor Code section 4616(a)(3).</p> <p>Reject: The recommended language goes beyond the statutory authority of Labor Code section 4616(a)(3) of ensuring only physicians who</p>	None.  None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>acknowledgment form provides an opportunity to make certain physicians joining MPNs receive full information regarding their rights and responsibilities in the MPN. Commenter's members report that many physicians say that they are not given the information or training needed to complete necessary administrative tasks within the MPN such as filing an RFA or submitting a bill. Commenter recommends that this rule be expanded to require that the MPN provide, either on the acknowledgment form or as an attachment, complete information on the MPN's procedures for approving treatment requests and paying billings. This information should identify the treatments that require prior authorization, and should provide specific directions to the physician on how to obtain such authorization, including applicable phone and fax numbers and email addresses to be used.</p>		affirmatively elects to be a member of a network shall be included in the MPN.	
9767.5.1(a)	<p>Commenter points out that this section states in part that, each MPN physician "shall have a written acknowledgement to participate in that MPN ...."( emph. added). Commenter</p>	<p>Stephen J. Cattolica Director of Government Relations ADVOCAL</p>	<p>Reject: Unnecessary because 9767.5.1(e), which will be re-lettered to 9767.5.1(g) addresses this concern.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>requests clarity regarding the meaning of this requirement. Labor Code Section 4616 (a) (3) states in part that each MPN physician shall "provide(s) a separate written acknowledgment in which the physician affirmatively elects to be a member of the network." Commenter recommends that the regulatory language be changed to read "<b>keep a copy of the</b> written acknowledgement to participate in that MPN ... "</p> <p>Commenter would like to acknowledge the extremely difficult task that MPNs have undertaken to provide a list of willing physicians by January 1, 2014 while leaving the door open for physicians within the underlying statute providing acknowledgement on that very same day. Commenter trusts that the Division will offer opportunities to MPNs to update their lists of acknowledged providers as those acknowledgements are received and processed.</p>	<p>September 30, 2013 Written and Oral Comments</p>		
9767.5.1(b)	<p>Commenter recommends the following revised language:</p> <p>If a physician has a contract that</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Accept in part. Reject in part. The commenter's recommendation to allow a physician to opt in or to opt out</p>	<p>§9767.5.1(f) is added to state, "Any form that presents more than one MPN for the</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>automatically renews, then the physician must confirm that they have been selected by the MPN and submit a written or electronic opt out request to the MPN no later than the contract renewal date that clearly specifies the time frame of the acknowledgement.</p> <p>Commenter opines that this means a written acknowledgement is required for evergreen contracts no later than the next renewal evergreen period. Commenter state that you might as well get them now.</p>		<p>of an MPN will be adopted. However, there are evergreen contracts that have no contract renewal date.</p>	<p>physician’s acknowledgment shall enable the physician either to opt in or to opt of each MPN.</p> <p>§9767.5.1(b) is re-lettered to (c) and is revised to add “If there is no contract renewal date, then the written acknowledgement shall be obtained by the MPN or before July 1, 2015.”</p>
9767.5.1(b)	<p>Commenter commends the DWC for allowing electronic signatures. Commenter is concerned with the potential process on how each of his organization’s providers will receive these written acknowledgments. There are perhaps 20 large MPN's and each MPN has perhaps 100 plus custom MPN's. This came about because the process of identifying Occupational Medicine providers was flawed. As a result, networks were forced to customize their respective MPN's. Commenter opine that as a</p>	<p>Joe Martinez CBO Director Concentra Medical Centers</p>	<p>Reject in part. Accept in part. It appears the commenter is mistaking an MPN for the underlying network of physicians that may make up the MPN with the statement, “There are perhaps 20 large MPN's and each MPN has perhaps 100 plus custom MPN's.” Nevertheless, the commenter’s concerns about the logistical burdens and costs of obtaining physician acknowledgments are</p>	<p>§9767.5.1(f) is added to state, “Any form that presents more than one MPN for the physician’s acknowledgment shall enable the physician either to opt in or to opt of each MPN.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>result, these proposed regulations will now require the MPN's to complete and send hundreds if not thousands of acknowledgements. Commenter acknowledges that in sections (c) and (d) there is language to mitigate some of this issue but he remains concerned that processing these acknowledgements will be burdensome, costly and a logistical challenge.</p>		<p>considered. As a result, an opt in or opt out options is adopted.</p>	
9767.5.1(b)	<p>Commenter recommends the following revised language:</p> <p><b>b) If a physician who is not a partner, shareholder or employee of a medical group</b>, has a contract that automatically renews, then a physician must submit a written acknowledgment with an original signature by the physician or his/her legal agent/designee no later than the contract renewal date that clearly specifies the time frame of the acknowledgment. Valid electronic signatures are acceptable.</p> <p>Commenters states that it should be clarified that this subsection does not apply to physicians who qualify for the exception outlined in subsection</p>	<p>Roman Kownacki, MD – Medical Director, Occupational Health Kaiser Permanente Northern California</p> <p>John T. Harbaugh, MD – Regional Chief of Occupational Medicine Kaiser Permanente Southern California Region September 30, 2013 Written Comment</p> <p>Connie Chiulli Kaiser Occupational Health Service Lobby</p>	<p>Reject: The recommended revision will not be adopted because it specifically refers to “a physician” and not to a “medical group.”</p> <p>Reject: Contract can mean either with an individual physician or a medical group.</p> <p>Reject: Yes, subdivision (d) refers to medical groups and subdivision (b) refers to individual physicians.</p> <p>Reject: No, if a physician is a</p>	<p>None.</p> <p>None.</p> <p>None.</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	(a). Commenter is unclear if “contract” refers to a contractual relationship with a medical group. Commenter would like to know if a new acknowledgement is required for each contract renewal. Commenter would like to know if subsection (d) represents an alternative to subsection (b). Will some physicians be required to comply with (b) even if the group has complied with (d)? Commenter seeks clarification.	September 30, 2013 Oral Comment	member of a medical group then a single acknowledgment may be provided for the group and the individual physician need not submit a physician acknowledgment.	
9767.5.1(b)	<p>Commenter requests clarification on what constitutes a “valid electronic signature.”</p> <p>Commenter notes that this paragraph proposes that “valid electronic signatures are acceptable” when a physician submits his written acknowledgment for automatic renewal purposes. Commenter opines that the term “valid electronic signatures” is vague.</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	Accept: The regulatory text will be revised to clarify what constitutes a valid electronic signature.	§9767.5.1(b) is revised to clarify that valid “Electronic signatures in compliance with California Government Code section 16.5 are acceptable.”
9767.5.1(b)	Commenter states that this subsection does not contain a provision for contracts that are “evergreen” in nature – i.e., they remain in force	Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers’	Accept: This distinction will be made and clarification will be provided when obtaining Physician Acknowledgments	§9767.5.1(b) is re-lettered to (c) and is revised to add “If there is no contract

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>indefinitely and uninterrupted unless either party proactively requests termination with 90 days prior notification <u>or</u> there is an immediate termination due to validated quality issues. Commenter states that there is a distinction between these “evergreen” contracts and contracts that “automatically renew”, as there is not “renewal date” per se with an evergreen contract. Commenter opines that it is clear that a new acknowledgement would be obtained upon signing any <u>new</u> contract, it is unclear how Physician Acknowledgments are to be handled thereafter under such circumstances.</p> <p>Commenter recommends that the Division add a provision in the rules to state that in case of an “evergreen” contract, the Physician Acknowledgement originally signed by the provider remains valid until such time as the provider notifies the contracting entity of change to the MPN participation status.</p>	<p>Compensation Services September 30, 2013 Written Comment</p>	<p>under those circumstances.</p>	<p>renewal date, then the written acknowledgment shall be obtained by the MPN on or before July 1, 2015. The acknowledgment must” clearly specify the time frame of the acknowledgment, “which may continue for as long as the contract is effective.”</p>
9767.5.1(b)	<p>Commenter supports the use of electronic signatures but would like to have clarification as to what</p>	<p>Stephanie Leras Coventry Health Care Oral Comment</p>	<p>Accept: The regulatory text will be revised to clarify what constitutes a valid electronic</p>	<p>§9767.5.1(b) is revised to clarify that valid “Electronic</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	constitutes a valid electronic signature.		signature.	signatures in compliance with California Government Code section 16.5 are acceptable.”
9767.5.1(b)	<p>Commenter recommends the following revised language:</p> <p>If a physician has a contract that automatically renews, then a physician’s original <del>must submit a written</del> acknowledgment with an original signature by the physician or his/her legal agent/designee <del>no later than the contract renewal date that clearly specifies the time frame of the acknowledgment.</del> <u>shall be made available on request and shall be considered valid for automatic renewals.</u> Valid electronic signatures are acceptable.</p> <p>Commenter opines that this section is unclear. If the contract specifies that it will automatically renew for specific additional periods of time unless either party requests termination or a new contract then there should be no requirement for a new acknowledgment from the provider?</p>	<p>Anita Weir, RN CRRN Director, Medical &amp; Disability Management Safeway, Inc. September 30, 2013 Written Comment and Oral Comment</p>	<p>Accept in part. Reject in part. The regulatory text will be revised to clarify the distinction between contracts that automatically renew. There are some automatically renewing contracts that have a renewal period whereby notice to the parties will be given at the end of each period and there are other automatically renewing contracts that have no renewal period which remain in force indefinitely and uninterrupted unless either party proactively requests termination. The commenter’s recommended language will not be adopted.</p>	<p>§9767.5.1(b) is re-lettered to (c) and is revised to add “If there is no contract renewal date, then the written acknowledgment shall be obtained by the MPN on or before July 1, 2015. The acknowledgment must” clearly specify the time frame of the acknowledgment, “which may continue for as long as the contract is effective.”</p>

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>Commenter opines that tracking renewal dates for the network is a necessary part of business, however, being able to secure signed documents from the providers is always time consuming and not always successful. Commenter opines that this is unnecessarily burdensome for all parties.</p>			
9767.5.1(c)	<p>Commenter recommends the following revised language:</p> <p>A physician may acknowledge participation in multiple MPNs to carriers or self insured employers that have more than one MPN filed per applicant name and that use the same network for their MPN or a single written acknowledgment or electronic acknowledgement signed with an original signature (if written) by the physician or his/her legal agent/designee.</p> <p>Commenter opines that acknowledgements should be in one list limited to the Network Service Entity they are using or client specific.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The Physician Acknowledgments will be MPN specific not specific to the MPN's clients.</p>	<p>None.</p>
9767.5.1(c)	<p>Commenter recommends that this subdivision be amended to require that the written acknowledgement must</p>	<p>California Applicants' Attorneys</p>	<p>Reject: Unnecessary the MPN must be clearly identified.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	identify the full name and business address of each MPN in which the physician participates.	Association September 29, 2013 Written Comment		
9767.5.1(c)	<p>Commenter is unclear if the physician is required to submit a new acknowledgement each time he or she is listed in a new MPN, is dropped from an MPN or when the MPN expires or is disbanded.</p> <p>Commenter opines that electronic signatures should be acceptable with respect to this subsection as well as subsection (b).</p>	<p>Roman Kownacki, MD – Medical Director, Occupational Health Kaiser Permanente Northern California</p> <p>John T. Harbaugh, MD – Regional Chief of Occupational Medicine Kaiser Permanente Southern California Region September 30, 2013 Written Comment</p> <p>Connie Chiulli Kaiser Occupational Health Service Lobby September 30, 2013 Oral Comment</p>	Reject: A physician is required to sign a physician acknowledgment each time the physician joins an MPN.	None.
9767.5.1(d)	<p>Commenter recommends the following revised language:</p> <p>A single written group acknowledgement may be submitted</p>	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment	Reject: A medical group need not submit individual physician acknowledgements	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>for a medical group on behalf of all members of the medical group and physicians should have the ability to opt out in writing or electronically opt out if they desire not to be in MPN. If at any point a physician no longer participating in the MPN or if new member join the medical group and the MPN, then an updated roster of participating providers shall be submitted to the MPN. The updated roster shall identify that a physician is no longer participating in the MPN or is a part of the medical group and shall identify the new physician(s) who are joining the medical group and MPN. This updated roster shall be submitted to the MPN if there are changes in physician status.</p> <p>Commenter would like to know what happens if the provider is added to more MPNs after he signs his acknowledgement. Does the MPN have to keep updating the list? Commenter questions if groups really are going to get and submit all these signatures and maintain updated the list of signatures.</p> <p>Commenter states that his</p>		<p>but can file a single group acknowledgment. However, the single medical group acknowledgment must contain a master list of physicians that shall be updated when members either join or leave the medical group. Certainly, a medical group can use the opt in or opt out process to compile its master list of physicians in the medical group.</p> <p>Reject: The MPN is only responsible for updating its list of physicians. If a physician in an MPN joins another MPN, then that other MPN is responsible for their own physician acknowledgment list.</p> <p>Accept: The regulatory text</p>	<p>None.</p> <p>§9767.5.1(d) is</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	organization never receives update from provider groups within 10 days of a change. Commenter would like to know if the division intends to impose financial penalties on provider/groups that do not comply.		will be revised to give MPN's more time to submit amendments to the medical group physician list.	amended to delete "ten" days and give MPN's "thirty" days to obtain the amended medical group list.
9767.5.1(d)	<p>Commenter would like confirmation that if a network has an existing written agreement and original signature or at the time of renewal from a provider that includes the provider's agreement to treat injured workers', agree to lease arrangement use and MPN participation, this will comply with the standard of obtaining an affirmation to treat injured workers and participate in MPN's if selected (both private practice and groups).</p> <p>Commenter would like to confirm that groups (per the Labor Code Section 4616.a.3.d) would not have to obtain individual physician signatures since they are functioning as employees of the medical group. Commenter requests that the division remove this requirement from the proposed regulations. Commenter opines that it</p>	<p>Robert Mortensen, President Anthem Workers' Compensation</p> <p>Angie O'Connel Director of Account Management &amp; MPN Services Anthem Workers' Compensation September 30, 2013 Written Comment</p>	<p>Reject: Physicians need to affirmatively elect to be a member of an MPN. The physician acknowledgments must specify the MPNs the physician has elected to participate in. General language regarding the treatment of injured workers in MPNs that does not specifically identify each MPN is insufficient.</p> <p>Accept: The requirement that each physician in a medical group sign the physician acknowledgments will be deleted. Each medical group shall include a list of all MPN physicians and shall affirm that each physician listed has agreed to participate in the</p>	<p>None.</p> <p>§9767.5.1(d) is revised to delete the phrase "if each physician signs the acknowledgment with an original signature by the physician of his/her legal agent/designee" and replace it with "Each medical group</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	is critical to prevent sending millions of paper affirmations from each of the networks that serve as the source networks for multiple MPNs. Further, this requirement may have an unintended effect of causing providers to decline participating in MPN's and create a true healthcare shortage.		MPN.	acknowledgment shall include a list of all physicians in the medical group and shall affirm that each physician listed has agreed to participate in the MPN.”
9767.5.1(d)	<p>Commenter states that discrepancies within this section, as proposed, have created significant confusion and disagreement among carriers, network developers and medical providers as to what is required.</p> <p>Commenter notes that subsection (a) restates that statutory language of Labor Code section 4616(a)(3); however, its meaning becomes less clear in light of the language in subsections (b), (c) and (d).</p> <p>Commenter opines that if a physician qualifies for the exception defined in subsection (a), he/she then is exempt from the requirements of (b) and (d).</p> <p>Commenter recommends the following revised language:</p> <p><b>(d) For physicians who are members</b></p>	<p>Roman Kownacki, MD – Medical Director, Occupational Health Kaiser Permanente Northern California</p> <p>John T. Harbaugh, MD – Regional Chief of Occupational Medicine Kaiser Permanente Southern California Region September 30, 2013 Written Comment</p> <p>Connie Chiulli Kaiser Occupational Health Service Lobby September 30, 2013 Oral Comment</p>	<p>Reject in part. Accept in part. Reject: A single physician acknowledgement may be submitted on behalf of physicians in an MPN who is a shareholder, partner or employee of a medical group that elects to participate in an MPN. Accept: The regulatory text will be revised to give MPN’s more time to submit amendments to the medical group physician list. Accept: The regulatory text will be revised to accept electronic signatures.</p>	<p>None.</p> <p>§9767.5.1(d) will be revised to delete the word “ten” days and replace it with “thirty” days.</p> <p>§9767.5.1(d) is revised to include the phrase “Electronic signatures in compliance with California Government Code section 16.5 are acceptable.”</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><b>of a group but not a partner, shareholder or employee,</b> a single written group acknowledgment may be submitted for a medical group on behalf of all members of the medical group if each physician signs the acknowledgment with an original signature by the physician or his/her legal agent/designee. If at any point a signatory to the group acknowledgment is no longer participating in the MPN or if new members join the medical group, then an amendment to the original group acknowledgement shall be submitted to the MPN. The amendment shall include a statement that a physician is no longer participating in the MPN or medical group and/or the signature of the physician who is joining the medical group and MPN. This amendment shall be submitted to the MPN within <del>ten</del> <b>thirty (30)</b> days of the effective date of the change.</p> <p><b>Valid electronic signatures are acceptable.</b></p> <p>Commenter opines that:</p> <ul style="list-style-type: none"> <li>• Subsection (d) should not apply to physicians who</li> </ul>			

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>qualify under the exception outlined in (a).</p> <ul style="list-style-type: none"> <li>• The requirement to submit amendments within 10 days of a change places an undue administrative burden on both medical providers and network administrators and is likely to flood the system with amendments that would be extremely difficult to track and implement. A time frame of 30 days would be more reasonable and allow groups to capture multiple changes in a single notification.</li> <li>• The acceptance of electronic signatures should be permitted throughout these regulations and questions why it is specifically permitted only under subsection (b).</li> </ul>			
9767.5.1(d)	<p>Commenter recommends the following revised language:</p> <p><b>(d) A single written group acknowledgement may be submitted for a medical group on behalf of all members of the medical group if each physician signs the</b></p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject in part. Accept in part: Reject: The commenter’s recommended language will not be adopted. Accept: The requirement that each physician in a medical group sign the physician acknowledgments will be</p>	<p>§9767.5.1(d) is revised to delete the phrase “if each physician signs the acknowledgment with an original signature by the physician of his/her</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><b>acknowledgement with an original signature by the physician or his/her legal agent/designee. If at any point a signatory to the group acknowledgment is no longer participating in the MPN or if new members join the medical group, then an amendment to the original group acknowledgment shall be submitted to the MPN the group will submit an updated physician roster to the MPN within 10 days of the effective date of any change.</b> The amendment roster shall set forth the listing of physicians that are no longer participating in the group and therefore no longer participating in the MPN and set forth any physicians that have joined the group and who are accepting and treating workers compensation patients. <del>group include a statement that a physician no longer participating in the MPN or medical group and/or the signature of the physician who is joining the medical group and MPN. This amendment shall be submitted to the MPN within ten days of the effective date of the change.</del> Pursuant to 9767.2(c)(4), the MPN will determine whether the new providers will be included in the MPN</p>		<p>deleted. The regulatory text will be revised so that each medical group shall include a list of all MPN physicians and shall affirm that each physician listed has agreed to participate in the MPN.</p>	<p>legal agent/designee” and replace it with “Each medical group acknowledgment shall include a list of all physicians in the medical group and shall affirm that each physician listed has agreed to participate in the MPN.”</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>and listed or whether they are automatically included because the MPN has listed the group as a whole rather than individual physicians or a subgroup. The MPN will update the public MPN listing within 45 days of receiving the updated roster listing from the medical group.</p> <p>Commenters states that this section essentially would require a group to execute a new acknowledgement form every time a physician joins or leaves the group. Commenter opines that while this may be practical for smaller groups, for larger groups or clinic models it can become unwieldy and an administrative burden. Commenter states that the group should be permitted to have an agent of the group sign a single acknowledgement for the group and simply notify new group members of each MPN the group is associated with rather than executing a new acknowledgement every time a new physician is added to a medical group. Commenter states that the group should be obligated to notify the MPN of the changes with 10</p>			

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>days of any update to the physician roster listing that would be used for the MPN. Commenter states that this process would address the need to assure each group has elected to participate in the network, maintain the MPN listing and ease administrative burden with respect to acknowledgements. When the MPN utilizes a leased network the MPN must transmit changes to the network, the network updates its feed to the vendor that provides the listing and then the online listing is updated with the changes. Due to the number of systems involved, this process is difficult to complete in less than 45 days. Commenter suggests that the directory update be required within 45 days of notice of the change.</p> <p>Commenter recommends the time period of 30 days to update the public listing from the date the MPN receives notice of the change to allow sufficient time for a leased network to process the change and then roll that change out to its MPN clients for publication in the client MPNs public listing.</p>		<p>Reject in part. Accept in part: The commenter’s recommendation to allow a 10 day deadline for medical groups to notify the MPN of any changes, 30 days for the MPN to make any changes to its list and then 45 days for the revised list to be publicized will not be adopted because the numerous deadlines will be too difficult to regulate. Accept: The regulatory text will be revised to give MPN’s more time to submit amendments to the medical group physician list</p>	<p>§9767.5.1(d) will be revised to delete the word “ten” days and replace it with “thirty” days.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.5.1(d)	<p>Commenter recommends the following revised language:</p> <p>“(d) A single written group acknowledgment may be submitted for a medical group, on behalf of all members of the medical group, if <del>each</del> <u>the</u> physician <u>authorized to contract on behalf of the medical group</u> signs the acknowledgment with an original signature <del>by the physician or his/her legal agent/designee</del>. <u>Modifications to roster listing shall be submitted to the MPN within ninety (90) days of the effective date of the change, with an original signature by the physician or his/her legal agent/designee. If at any point a signatory to the group acknowledgment is no longer participating in the MPN or if new members join the medical group, then an amendment to the original group acknowledgment shall be submitted to the MPN. The amendment shall include a statement that a physician is no longer participating in the MPN or medical group and/or the signature of the physician who is joining the medical group and MPN. This amendment shall be submitted to the MPN within ten days of the effective date of the change.</u>”</p> <p>Commenter opines that the proposed language in having each physician in a</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>Reject in part. Accept in part: The commenter’s recommended revisions will not be adopted. However, the requirement that each physician in a medical group sign the physician acknowledgments will be deleted. The regulatory text will be revised so that each medical group shall include a list of all MPN physicians and shall affirm that each physician listed has agreed to participate in the MPN.</p> <p>Reject in part. Accept in part: Reject: 90 days to modify the roster listing will not be adopted. Accept: The regulatory text will be revised to give MPN’s more time to submit amendments to the medical group physician list.</p>	<p>§9767.5.1(d) is revised to delete the phrase “if each physician signs the acknowledgment with an original signature by the physician of his/her legal agent/designee” and replace it with “Each medical group acknowledgment shall include a list of all physicians in the medical group and shall affirm that each physician listed has agreed to participate in the MPN.”</p> <p>§9767.5.1(d) will be revised to delete the word “ten” days and replace it with “thirty” days.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>medical group sign the acknowledgment is onerous and tedious. Commenter states that this will require considerable administration work and will pose significant challenges on the medical group as well as the MPN in maintaining a current roster listing as providers opt in or opt out with little or no notice.</p>			
9767.5.1(d)	<p>Commenter recommends the following revised language:</p> <p>(d) A single written group acknowledgment may be submitted for a medical group on behalf of all members of the medical group if <u>an authorized employee of the medical group or his or her designee signs the acknowledgement and provides a copy to all members of the medical group.</u> <del>each physician signs the acknowledgment with an original signature by the physician or his/her legal agent/designee. If at any point a signatory to the group acknowledgment is no longer participating in the MPN or if new members join the medical group, then an amendment to the original group acknowledgement shall be submitted to the MPN. The amendment shall include a statement that a physician is</del></p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Accept in part. Reject in part.: The requirement that each physician in a medical group sign the physician acknowledgments will be deleted. Each medical group shall include a list of all MPN physicians and shall affirm that each physician listed has agreed to participate in the MPN.</p> <p>Reject in part. Accept in part: The commenter's recommended revisions to</p>	<p>§9767.5.1(d) is revised to delete the phrase "if each physician signs the acknowledgment with an original signature by the physician of his/her legal agent/designee" and replace it with "Each medical group acknowledgment shall include a list of all physicians in the medical group and shall affirm that each physician listed has agreed to participate in the MPN."</p> <p>§9767.5.1(d) will be revised to delete the word "ten" days and</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><del>no longer participating in the MPN or medical group and/or the signature of the physician who is joining the medical group and MPN. The medical group is required to submit updated rosters to the MPN to maintain MPN listings. Only providers that treat workers' compensation injuries are to be included on the roster listing. This amendment</del> <u>Modifications to roster listings shall be submitted to the MPN within ten days of the effective date of the change monthly, no later than the 5<sup>th</sup> business day of each month.</u></p> <p>Commenter opines that the word "legal" is not necessary and because its intended meaning is not clear it will cause confusion and disputes. If the word remains, its intended meaning must be clarified.</p> <p>Commenter states that sections 9767.3(d)(8)(F), through its reference to 9767.5.1(d), is in conflict with 4616(a)(3). 4616(a)(3) contains a provision that the acknowledgement form may be signed by an authorized employee of the physician or the physician's office. The code section</p>		<p>allow changes "monthly, no later than the 5<sup>th</sup> business day of each month" will not be adopted but the regulatory text will be revised to give MPN's more time to revise its medical group physician listings.</p> <p>Accept: The regulatory text will be revised to delete "legal" agent/designee.</p> <p>Accept: §9767.3(d)(8)(F) will be revised to comport with the revisions to §9767.5.1(d) which no longer requires each physician in a medical group sign the physician acknowledgment.</p>	<p>replace it with "thirty" days.</p> <p>§9767.5.1(d) is revised to delete "legal" agent/designee and replace it with "The medical group's agent or designee".</p> <p>§9767.5.1(d) is revised to delete the phrase "if each physician signs the acknowledgment with an original signature by the physician of his/her</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>continues on to state: “This paragraph does not apply to a physician who is a shareholder, partner, or employee of a medical group that elects to be part of the network.” This sentence indicates that the affirmation from a medical group need only come from the medical group as a whole if the medical group is selected for participation in the MPN.</p> <p>Commenter opines that the requirement in 9767.5.1(d) conflicts with the statute by requiring “A single written group acknowledgment may be submitted for a medical group on behalf of all members of the medical group if each physician signs the acknowledgment with an original signature by the physician or his/her legal agent/designee.” Commenter stats that the requirement that each physician signs an acknowledgement for the medical group is a limitation that is not contained in the enabling statute, and is therefore void (<u>Mendoza v WCAB</u> (2010) En Banc Opinion 75 CCC 63). Commenter opines that it is administratively burdensome. Commenter states that the proper interpretation of section</p>		See previous response.	<p>legal agent/designee” and replace it with “Each medical group acknowledgment shall include a list of all physicians in the medical group and shall affirm that each physician listed has agreed to participate in the MPN.”</p> <p>See previous action.</p>

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>4616(a)(3) is if the medical group acknowledges participation and the MPN lists the medical group as a whole in the network, that is all that is required. If the MPN selects only specific providers from a medical group, then each provider would be required to sign a separate acknowledgement.</p> <p>Because of the manner in which MPN listings are updated, commenter suggests that roster listings be submitted monthly to allow the MPN to update MPN listings in compliance with 9767.12(a)(2)(C) which requires deceased providers or providers no longer treating injured workers to be removed from the listing within 30 days (we are also recommending that this be modified to 90 days due to system update schedules and issues that will arise when an MPN is obtaining information from a leased network). This approach would be consistent with 4616((a)(4) which requires roster listings beginning January 1, 2014.</p> <p>Commenter states that if it is the intent that the individual listing of a medical</p>		<p>Reject in part. Accept in part. The process to modify provider listings once MPNs have been notified of a change is different from the requirements set forth in Labor Code §4616(a)(4) mandating the MPNs update or refresh its provider listings on a quarterly basis. §9767.5.1(d) is akin to the process to modify provider listings once MPNs have been notified of a change and, therefore, revisions will be made to the regulatory text to allow more time from ten days to 30 days.</p> <p>See second response to this commenter.</p>	<p>§9767.5.1(d) will be revised to delete the word “ten” days and replace it with “thirty” days.</p> <p>See second action to this commenter.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	group that is included as a whole is all that is required, and that the network is not required to list each physician in the medical group in its filing or network listing, she recommends that the Administrative Director add clarification to that effect. If this clarification is added, then the roster language proposed is not applicable.			
9767.5.1(d)	<p>Commenter notes that the proposed rules provide for submission of a single written group acknowledgement “...if each physician signs the acknowledgement with an original signature ...” Commenter opines that this proposed language is problematic for a number of different reasons. First, Labor Code Section 4616, as amended by SB863, specifically addresses the issue of physicians that are employees of a large medical group, noting that “...[the physician acknowledgement provision] shall <b>not</b> apply to a physician who is a shareholder, partner, or employee of a medical group that elects to be part of the network. Secondly, as a practical matter, many group members have no authority whatsoever to determine their own network participation and/or</p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers’ Compensation Services September 30, 2013 Written Comment</p>	<p>Accept in part. Reject in part.: Reject: Section (d) will not be deleted in its entirety. Accept: The requirement that each physician in a medical group sign the physician acknowledgments will be deleted. Each medical group shall include a list of all MPN physicians and shall affirm that each physician listed has agreed to participate in the MPN.</p>	<p>§9767.5.1(d) is revised to delete the phrase “if each physician signs the acknowledgement with an original signature by the physician of his/her legal agent/designee” and replace it with “Each medical group acknowledgement shall include a list of all physicians in the medical group and shall affirm that each physician listed has agreed to participate in the MPN.”</p>

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>sign their own contracts in their role as employees of a group. Lastly, some medical groups have hundreds and hundreds of practitioners contained within their groups, and it is impractical (if not impossible) for a representative to attempt to contact each and every physician and have them sign individual agreements for the purposes of treating Workers' Compensation patients solely. Commenter opines that requiring such an action may result in larger medical groups dropping out of MPN's entirely due to the substantially increased administrative burden, resulting in an unintended access to care issue.</p> <p>Commenter states that this section (d) should be deleted in its entirety as being contrary to Section 4616 of the Labor Code. Alternatively, at a minimum, commenter opines that the rules should be modified to remove entirely the phrase that says "...if each physician signs the acknowledgement with an original signature by the physician or his/her legal agent/designee".</p>			
9767.5.1(d)	Commenter states that this subsection	Lisa Anne Forsythe	Reject in part. Accept in part:	§9767.5.1(d) is

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>mandates a 10-day notification period for a group medical practice to notify an MPN if a provider is leaving their practice. Commenter opines that the Labor Code intended to exempt group practice physicians from the physician acknowledgment process <i>altogether</i>, and under the current proposed rules, not only are group practice physician <i>not</i> exempted, but they are subjected to an extremely short 10-day requirement to notify an MPN when specific physician changes occur, which only exacerbates the situation. Commenter states that the proposed timeframe is onerous for large medical groups, creating administrative burdens and potential contribution to an overall access-to-care issue if larger practices choose to leave the Workers' Compensation system due to the proposed requirements.</p> <p>Commenter states that section (d) should be deleted in its entirety as being contrary to Section 4616 of the Labor Code. Alternatively, at a minimum, commenter opines that the notification requirement to MPN's from large group practices in the event of physician changes should be</p>	<p>Senior Compliance Consultant Coventry Workers' Compensation Services September 30, 2013 Written Comment</p>	<p>Reject: Disagree that group practice physician were intended to be exempt from the physician acknowledgment process "altogether" but rather from the requirement to submit physician acknowledgments from each physician in its group. Accept: The requirement that each physician in a medical group sign the physician acknowledgments will be deleted. Each medical group shall include a list of all MPN physicians and shall affirm that each physician listed has agreed to participate in the MPN.</p> <p>Reject: Section (d) will not be deleted in its entirety.</p> <p>Accept: The regulatory text will be revised to give MPN's more time to submit amendments to the medical group physician list.</p>	<p>revised to delete the phrase "if each physician signs the acknowledgment with an original signature by the physician of his/her legal agent/designee" and replace it with "Each medical group acknowledgment shall include a list of all physicians in the medical group and shall affirm that each physician listed has agreed to participate in the MPN."</p> <p>None.</p> <p>§9767.5.1(d) will be revised to delete the word "ten" days and replace it with "thirty" days.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	extended to a more reasonable 30-day timeframe.			
9767.5.1(d)	<p>Commenter recommends the following revised language:</p> <p>A single written group acknowledgment may be submitted for a medical group on behalf of all members of the medical group <del>if each physician signs the acknowledgment with an original signature by the physician or his/her legal agent/designee.</del> If at any <del>point</del> <u>time</u> a <del>signatory to the group acknowledgment</del> <u>member provider</u> is no longer participating in the MPN or if new members join the medical group, then an amendment to the original group acknowledgement shall be submitted to the MPN. The amendment shall include a statement that a physician is no longer participating in the MPN or medical group and/or the signature of the physician who is joining the medical group and MPN. <u>The medical group is required to submit updated rosters to the MPN quarterly to maintain MPN listings. Only providers that treat workers' compensation injuries are to be included on the roster listing. This</u></p>	Anita Weir, RN CRRN Director, Medical & Disability Management Safeway, Inc. September 30, 2013 Written Comment and Oral Comment	Reject in part. Accept in part: The commenter's recommended revisions will not be adopted. However, the requirement that each physician in a medical group sign the physician acknowledgments will be deleted. The regulatory text will be revised so that each medical group shall include a list of all MPN physicians and shall affirm that each physician listed has agreed to participate in the MPN.	§9767.5.1(d) is revised to delete the phrase "if each physician signs the acknowledgment with an original signature by the physician of his/her legal agent/designee" and replace it with "Each medical group acknowledgment shall include a list of all physicians in the medical group and shall affirm that each physician listed has agreed to participate in the MPN."

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><del>amendment shall be submitted to the MPN within ten days of the effective date of the change submitted to the MPN within ten days of the effective date of the change</del></p> <p>Commenter opines that it is unnecessary and unenforceable to dictate how a medical group practice handles internal work assignments, contracts or agreements. Commenter states that even monthly updates to the hundreds of MPNs is not realistic. Commenter opines that having a single web site for providers to submit updates to would make the process cost effective for everyone and allow the MPN administrators to find the changes and update their networks consistently.</p>		Accept in part. Electronic acknowledgments in a web-based format will be accepted.	§9767.5.1(e)(3) is added “An electronic acknowledgment in a web-based format using generally accepted means of authentication to confirm the identity of the person making the acknowledgment. If using a web-based form, the list of MPNs showing the physician’s selections shall be available to the physician on-line at any time outside of the necessary system interruptions.”
9767.5.1(c)	Commenter opines that requirement to have every physician acknowledge participation in multiple MPNs in a single written acknowledgement signed with an original signature by the physician or his/her legal	Margaret Wagner Signature Networks Plus, Inc. September 30, 2013 Written and Oral Comments	Reject in part. Accept in part: Reject: The regulatory text of 9767.5.1(c) was proposed to allow MPN physicians to acknowledge participation in multiple MPNs with a single	None.  §9767.5.1(b) is revised “Electronic signatures in compliance with

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>agent/designee is overkill. Commenter states that this creates a horrible burden for the California provider community.</p> <p>Commenter has multiple source networks sending out requests for affirmation statements to the provider community. Commenter states that providers are being flooded with all types of forms and communications requesting affirmation statements. Commenter states that she knows of one provider that had to staff two more positions to his practice just to deal with all of the requests coming in from multiple directions including but not limited to source networks, self-insured employers and insurers.</p>		signature. Accept: The regulatory text will be revised to specifically allow electronic signatures.	California Government Code section 16.5 are acceptable.”
9767.8(a) and (d)	<p>Commenter opines that the various advance notice requirements found within this Section together with the default time frame pursuant to subsection (a), "before any of the following changes occur," do not appear consistent with the approval process for modifications as described in subsection (d).</p> <p>Commenter does not understand how an MPN can be allowed to file a</p>	Stephen J. Cattolica Director of Government Relations ADVOCAL September 30, 2013 Written and Oral Comments	Reject: DWC has 60 days to review and either approve or disapprove an MPN Plan Modification. If DWC does not act within 60 days from receipt, then the Notice of MPN Plan Modification will be deemed approved. However, DWC should act long before the 60 days expire and likely within the time frames specified in §9767.8(a)	None.

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	<p>modification with the Division in any less than the same 60 days that the Division has to approve the modification. As written, commenter opines that this Section appears to allow an MPN to comply with the notification requirements found herein, implement the change without knowing if the change is going to be approved. Commenter states that if, for whatever reason, the DWC does not review the modification in a timely manner, an otherwise incorrect change could be "approved" by default. In contrast, a WCHCO (Labor Code Section 4600.5) is required to gain approval for any material modification before the change can be implemented - a far superior procedure.</p> <p>Since the default approval process cannot be changed, commenter suggests that any and all changes that result in filing a MPN modification must be filed prior to 60 days before the change takes place. Otherwise, a change properly filed pursuant to this Section and later found to be disapproved, could mean injured workers would not have been able to</p>		and (b).	

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	exercise their right to find a provider of their choice outside the MPN during the period that the MPN was actually out of compliance.			
9767.6	<p>Commenter recommends the following revised language:</p> <p>(a) When the injured covered employee notifies the employer <u>as defined in Section 9767.1 (a)(6) or the insurer as defined in Section 9767.1 (a)(13) insured employer</u> of the injury or files a claim for workers' compensation with the employer or <u>insurer insured employer, the employer or insurer or entity that provides physician network services</u> shall arrange an initial medical evaluation with a MPN physician in compliance with the access standards set forth in section 9767.5.</p> <p>Commenter recommends this change for clarity and conformance to the definitions provided in 9761.1.</p>	Steven Suchil Assistant Vice President/Counsel American Insurance Association September 27, 2013 Written Comment	Reject: The recommended revisions are unnecessary because the definition are provided for in §9767.1.	None.
9767.6	<p>Commenter recommends inclusion of the following provision to this section:</p> <p>“Access to MPN specialty care, when specialists are partners, shareholders or employees of a Group Health Plan</p>	Roman Kownacki, MD – Medical Director, Occupational Health Kaiser Permanente Northern California	Reject: The recommended language is unnecessary and could lead to misinterpretations that could take away the injured employee’s ability to choose	None.

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>pursuant to 4616(a)(3) and 9767.5.1(a), may be facilitated through the Plan’s Occupational Health Provider.”</p> <p>Commenter states that given the size and scope of his organization with multiple points of patient access, he opines, that in the interests of quality care and efficient administration, that all industrial injury care, especially management within an MPN, be overseen by their designated Occupational Health providers.</p>	<p>John T. Harbaugh, MD – Regional Chief of Occupational Medicine Kaiser Permanente Southern California Region September 30, 2013 Written Comment</p> <p>Connie Chiulli Kaiser Occupational Health Service Lobby September 30, 2013 Oral Comment</p>	<p>his/her MPN physician. Labor Code §4616.3(d)(1) makes it clear that injured employee’s may select the MPN physician of his/her choice.</p>	
9767.6(a)	<p>Commenter recommends the following revised language:</p> <p>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 or claims administrator shall arrange an initial medical evaluation with a MPN physician in compliance with the access standards set forth in section 9767.5.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The recommended revisions are unnecessary because changes will be made to §9767.5(f) and to §9767.19(a)(2)(D) that addresses commenter’s concerns. A PPO Network that applies and is approved as an entity that provides physician network services is not expected to perform this claims administration function.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter opines that if the entity is a TPA, this makes sense. Commenter states that a PPO network would not arrange for initial medical care. Even if a network service entity becomes an MPN, they would not perform this claims administrator function.</p>			
9767.6(a)	<p>Commenter recommends the following revised language:</p> <p>(a) When the injured covered employee notifies the employer, <del>or</del> insured employer <u>or claims administrator</u> of the injury or files a claim for workers' compensation with the employer, <del>or</del> insured employer <u>or claims administrator</u>, the employer, <del>or</del> insured employer, <u>claims administrator</u> or entity that provides physician network services shall arrange an initial medical evaluation <u>and begin treatment</u> with an MPN physician in compliance with the access standards set forth in section 9767.5.</p> <p>Commenter states that Labor Code section 4616.3(a) required the employer to arrange an initial evaluation and begin treatment.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: The recommended revisions are unnecessary because changes will be made to §9767.5(f) and to §9767.19(a)(2)(D) that addresses commenter's concerns. The employer or insurer is responsible for arranging an initial medical evaluation with an MPN physician.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter states that the other changes to the terms in (a), (b), (c), (d) and (e) are recommended for accuracy completeness and clarity.</p>			
9767.6(b)	<p>Commenter recommends the following revised language:</p> <p>Within one working day after an employee files a claim form under Labor Code section 5401, and there is knowledge by the employer or insurer, they 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 <i>et seq.</i></p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The commenter's recommendation is outside the scope of this rulemaking since no changes are being made to §9767.6(b).</p>	None.
9767.6(b), (c), (d) and (e)	<p>Commenter recommends the following revised language:</p> <p>(b) Within one working day after an employee files a claim form under Labor Code section 5401, the <del>employer or insured employer</del> <u>claims administrator</u> 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 <i>et seq.</i></p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: The commenter's recommendation is outside the scope of this rulemaking since no changes are being made to §9767.6(b).</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>(c) The <del>employer or insurer</del> <u>claims administrator</u> 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).</p> <p>(d) The employer, <del>or insured employer,</del> <u>claims administrator</u> or entity that provides physician network services 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.</p> <p>(e) At any point in time after the initial medical evaluation with an MPN physician, the <u>injured</u> covered employee may select a physician of his or her choice from within the MPN. Selection by the covered <u>injured</u> employee of a treating physician and any subsequent</p>		<p>Reject: The commenter’s recommendation is outside the scope of this rulemaking since no changes are being made to §9767.6(c).</p> <p>Reject: Although claims administrators can certainly apply to be an MPN as an “entity that provides physician network services”, claims administrators are not specifically mentioned under Labor Code §4616(a)(1) as an entity that may establish an MPN.</p> <p>Reject: The recommendation to add the word “injured” before “covered” is unnecessary because an employee would not be seeking treatment with an MPN physician unless he/she is injured.</p>	<p>None.</p> <p>None.</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>physicians shall be based on the physician's specialty or recognized expertise in treating the particular injury or condition in question. If a chiropractor is selected as a treating physician, the chiropractor may act as a treating physician only until the 24-visit cap is met unless otherwise authorized by the <del>employer or insurer</del> <u>claims administrator</u>, after which the <u>injured</u> covered employee must select another treating physician in the MPN who is not a chiropractor.</p> <p>Commenter notes that the recommended changes to “claims administrator” in (a), (b), (c), (d) and (e) are recommended for accuracy and clarity.</p> <p>Commenter opines that clarification is needed that (e) applies to an <u>injured</u> covered employee.</p>			
9767.6(c)	<p>Commenter suggest adding the following language to this section:</p> <p>“The 24 visit cap does not apply to injuries that occurred before January 1, 2004. Also, the cap does not apply if your employer authorizes additional visits in writing. Additionally, the cap</p>	Eric Mumbauer, D.C. Chief Financial Officer & Chair, Workers’ Compensation Committee California Chiropractic	Reject: The commenter’s recommendation is outside the scope of this rulemaking since no changes are being made to §9767.6(c). However, the recommended language will be incorporated in §9767.6(e).	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	does not apply to visits for certain postsurgical physical medicine and rehabilitation services.”	Association		
9767.6(d)	<p>Commenter recommends the following revised language:</p> <p>The insurer or employer or claims administrator on behalf of 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.</p> <p>Commenter opines that PPO networks should not be required to notify employees if they are not the MPN.</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The recommended revisions are unnecessary because changes will be made to the regulatory text that addresses commenter’s concerns. §9767.19(b)(1) will be added so that a PPO Network that applies and is approved as an entity that provides physician network services is not expected to perform this function and will not be subject to penalties.</p>	<p>§9767.19(b)(1) is added that states “Penalties may be assessed against the employer or insurer responsible for these notices violations: (1) Failure to provide the written MPN employee notification pursuant to section 9767.12(a) to an injured covered employee, \$1,500 per occurrence.”</p>
9767.6(d)	<p>Commenter notes that this subdivision was amended only to add a reference to an "entity that provides physician network services." Commenter states that other proposed amendments in these regulations deal with the list of providers. Commenter opines that accessing the correct provider list is often difficult even for commenter’s members and their staffs, and in some cases can be virtually impossible for</p>	<p>California Applicants’ Attorneys Association September 29, 2013 Written Comment</p>	<p>Rejected: Mandating a QR Code or Quick Response Code is unnecessarily burdensome on MPNs. As commenter states other proposed amendments in these regulations deal with the list of providers and ways in which to access the correct provider listing.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>an unrepresented worker. Commenter urges the Division to consider amendments that will make it easier for employees to access the correct provider list. Commenter recommends an amendment requiring that the notice to 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 must include a QR code (sometimes called a "scan box") that would link directly to the provider list. The notice to the employee should also advise of his or her right to request a printed copy of the MPN provider list should they not have access to a computer and that this list will be provided within one business day upon receipt of this request.</p>			
9767.6(e)	<p>Commenter recommends replacing the term “shall” with the term “may” in the second sentence of this subsection.</p> <p>Commenter opines that the use of the word “shall” in regard to specialists for routine/minor injuries may cause and increase in medical claims costs.</p> <p>Commenter states that there is no definition or limit of time or duration</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: The statutory language is directly pulled from Labor Code §4616.3(d)(1).</p> <p>Reject: There are no limits of time or duration during which the 24 visits must be completed because it will depend on whether or not the chiropractic treatments are reasonable and necessary.</p>	<p>None.</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	during which the 24 visits must be completed and may cause delay in return to work and extended temporary disability.			
9767.6(e)	<p>Commenter opines that the proposed language referring to the 24-visit cap is not entirely accurate. Labor Code section 4600(c) was amended to provide that a chiropractor may not be a treating physician after the employee has received "the maximum number of chiropractic visits allowed by subdivision (d) [sic] of Section 4604.5." The proposed language does recognize that an employer may authorize additional chiropractic visits, but it still ignores the fact that post-surgical treatment guidelines permit physical medicine treatments that may include chiropractic treatment, and these post-surgical treatments are not limited by the 24-visit cap [see CCR section 9792.24.3(b)(1)]. Commenter recommends that this subdivision be amended to conform to the language in Labor Code section 4604.5(c)(2)(A), and to provide that post-surgical treatment guidelines permit physical medicine treatments that may include chiropractic</p>	<p>California Applicants' Attorneys Association September 29, 2013 Written Comment</p>	<p>Reject: The phrase "unless authorized by the employer or insurer" is recognition that there are exceptions to the 24 visit cap, such as post-surgical treatments.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	treatment, and these post-surgical treatments are not limited by the 24-visit cap.			
9767.6(f)	Commenter recommends deleting this subsection. Commenter opines that there is no reason that a Petition for Change of Treating Physician should be prohibited for covered injured employees treating with MPN physicians. Commenter state that the petition provides additional protection for injured employees.	Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment	Reject: §9767.6(f) makes it abundantly clear that a Petition for Change of Treating Physician is prohibited since MPNs must allow a Second and Third Opinion from an MPN physician selected by the injured employee.	None.
9767.6(f)	<p>Commenter recommends that this subsection be deleted.</p> <p>Commenter states that there is no reason that a Petition for Change of Treating Physician should be prohibited for covered injured employees treating with MPN physicians. Commenter opines that the Administrative Director does not have the authority to discriminate this way between treating physician in the MPN and outside the MPN. Commenter states that the ability to petition provides protection for injured employees whether or not they are subject to an MPN.</p>	Brenda Ramirez Claims & Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments	Reject: §9767.6(f) makes it abundantly clear that a Petition for Change of Treating Physician is prohibited since MPNs must allow a Second and Third Opinion from an MPN physician selected by the injured employee.	None.
9767.7(g)	Commenter recommends the following revised language:	Mark Sektnan, President	Reject in part. Accept in part: Reject: The recommended	§9767.7(g) is revised to delete "or outside"

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><b><u>(g) The employer or insurer shall permit the employee to obtain the recommended treatment within the MPN or outside the MPN if the second opinion or third opinion doctor does not participate in the MPN. The covered employee may obtain the recommended treatment by changing physicians to the second opinion physician, third opinion physician, or other MPN physician.</u></b></p> <p>Commenter opines that this continues to be confusing due to the addition of the word “outside” the MPN. All other sections of 9767.7 refer to the MPN and providing lists of providers within the MPN. Commenter opines that if the MPN provides such listings and the second or third opinion doctor is within the MPN, then it seems that treatment should be required in the MPN. Commenter states that the use of “outside” in subsection “g” makes it sound as though regardless of whether or not the second or third opinion reviewer was within the MPN, the injured worker can simply choose to treat outside the MPN from that</p>	<p>Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>language will not be adopted. Accept: This provision is confusing and the phrase “or outside” will be clarified.</p>	<p>before “the MPN” and replace it with the phrase “or outside the MPN if the MPN does not contain a physician who can provide the recommended treatment.”</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>point forward. Commenter opines that the intent is to state the treatment outside of the network will be allowed when the second or third opinion doctor was a provided that did not participate in the MPN. The last sentence of subsection “g” supports that by stating that the injured worker’s choices are to treat with the second or third opinion physician or another MPN physician. Commenter recommends that his section clarify the intent.</p>			
9767.7(g)	<p>Commenter recommends the following revised language:</p> <p>The employer or insurer shall permit the employee to obtain the recommended treatment within <del>or outside</del> the MPN. The covered employee may obtain the recommended treatment by changing physicians to the second opinion physician, third opinion physician, or other MPN physician. <u>If the MPN does not have a physician who can provide the approved treatment or if the type of specialty appropriate is not included in the MPN, employee shall be permitted to obtain the recommended treatment outside the MPN.</u></p> <p>Commenter states that this section</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>Reject in part. Accept in part: Reject: The recommended language will not be adopted. Accept: This provision is confusing and the phrase “or outside” will be clarified.</p>	<p>§9767.7(g) is revised to delete “or outside” before “the MPN” and replace it with the phrase “or outside the MPN if the MPN does not contain a physician who can provide the recommended treatment.”</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>addresses the second and third opinion process when a covered employee disputes the diagnosis or treatment prescribed by the primary treating physician or treating physician. Commenter opines that the proposed change in paragraph (g), as written, could be interpreted to mean that the injured employee be allowed to treat outside the MPN without considering treatment within the MPN first. Commenter states that this language should be amended to include the conditions of when an employee can treat outside of the MPN.</p>			
9767.8	<p>Commenter recommends that the Division revise all the timeframes for filing changes to a standard 30 days from each change. Commenter opines that when communications is necessary, as it often is, between an entity that provides MPN services, an MPN applicant, an MPN user, and/or an MPN provider, requiring changes to be filed prospectively, within 5 days, or within 15 days is impractical or impossible.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject in part. Accept in part: Reject: The differing timeframes reflect the urgency in which a Plan for Modification must be filed. Accept: the timeframe to file a change in the eligibility status of the MPN applicant will be revised from 5 business days to 15 business days.</p>	<p>None. §9767.8(a)(2) is revised to delete "five" business days and replace it with "fifteen" business days.</p>
9767.8(a)	<p>Commenter notes that this subsection requires reporting to the Administrative Director, with an original Notice of MPN Plan Modification. Commenter opines that this provision is unclear and could</p>	<p>Steven Suchil Assistant Vice President/Counsel American Insurance Association September 27, 2013</p>	<p>Reject: The entire §9767.8 clarifies situations requiring a Notice of MPN Plan Modification.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>result in unneeded reporting of large amounts of information.</p> <p>Commenter notes that it is not clear what constitutes a material change of website or medical access assistant information.</p>	Written Comment		
9767.8(a)	<p>Commenter recommends the following revised language:</p> <p><b>(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 in the format noted in section 9767.3(c)(1), within the stated time frames or if no time frame is stated, then before any of the following changes occur:</b></p> <p>Commenter suggests adding this wording for clarity and consistency.</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: The detailed instructions for submitting a Notice of MPN Plan Modification are provided in the Notice of Medical Provider Network Plan Modification §9767.8 Form.</p>	None.
9767.8(a)(1)-(a)(3)	<p>Commenter recommends the following revised language:</p> <p>“(1) Change in the name of the MPN or the name of the MPN Applicant. Filing required within</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p>	<p>Reject: DWC needs to be notified of a change in the name of MPN or MPN</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><del>(15) fifteen</del> <u>twenty (20)</u> business days of the change.”</p> <p>“(2) Change in the eligibility status of the MPN Applicant. Filing required within <del>five (5)</del> <u>twenty (20)</u> business days of knowledge of a change in eligibility.”</p> <p>“(3) Change of Division Liaison or Authorized Individual: Filing required within <del>fifteen (15)</del> <u>twenty (20)</u> business days of change.”</p> <p>Commenter states that the proposed subsections (a)(1), ((a)2), and (a)(3) give an MPN the respective 15 business days, 5 business days, and 15 business days to file specific plan modification changes. Commenter proposes a more reasonable 20 business days for each of the aforementioned subsections as each change would involve significant work processes.</p>	<p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>Applicant as soon as reasonably possible.</p> <p>Accept in part: Although DWC should be notified of any anticipated changes in the MPN Applicant’s eligibility status before it happens (see §9767.14(a)(6)(A)), extending the timeline from five days to fifteen days is reasonable.</p> <p>Reject: DWC needs to be notified of a change in MPN Liaison or Authorized Individual as soon as reasonably possible.</p>	<p>§9767.8(a)(2) is revised to delete “five” and replace it with “fifteen” business days.</p> <p>None</p>
9767.8(a)(11)	<p>Commenter suggests that the Administrative Director consider exempting changes made to comply with statutory or regulatory timeframes or adjusting the submission timeframes for these changes.</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: Changes in the MPN provider listing will obviously occur and must comply with the regulatory and statutory requirements that address this issue. However, §9767.8(a)(11) will only apply</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			if there is a material change in the items listed.	
9767.8(a)(11)	<p>Commenter recommends the following revised language:</p> <p>A material change in any of the employee notification materials, including a change in MPN contact or Medical Access Assistants <u>contact</u> information or a change in provider listing access or MPN website information, required by section 9767.12.</p> <p>Commenter opines that the proposed language regarding change in Medical Access Assistants information is vague and may create confusion as to what specific MAA information is needed. Commenter recommends specificity by adding “contact” for MAA information material change.</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>Accept: The regulatory text will be revised to add the word “contact” for clarity.</p>	<p>§9767.8(a)(11) is revised to add “a change in the” Medical Access Assistants “contact” information.</p>
9767.8(a)(11)	<p>Commenter recommends the following revised language:</p> <p>(a)(11) A material change in any of the employee notification materials, including a change in MPN contact, <del>or Medical Access Assistants information</del> or a change in provider listing access or MPN website</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Accept in part: The regulatory text as written is vague and will be revised to add the word “contact” after the phrase “Medical Access Assistants” to specify what change to an</p>	<p>§9767.8(a)(11) is revised to add “a change in the” Medical Access Assistants “contact” information.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>information, required by section 9767.12.</p> <p>Commenter states that every network will add Medical Access Assistant information. Commenter opines that requiring every network to file a modification when complying with new law is overkill and will expend resources unnecessarily.</p>		<p>MPN Medical Access Assistant requires a filing of a Notice of MPN Plan Modification.</p>	
9767.8(a)(2)	<p>Commenter recommends the following revised language:</p> <p><b><u>(Change in the eligibility status of the MPN Applicant. Filing required within fifteen five-(15) business days of knowledge of a change in eligibility.</u></b></p> <p>Commenter states that he understands the importance of an Applicant’s eligibility status but opines that 5 business days is an extremely aggressive standard. This does not provide sufficient time to notify third party administrators or an Entity that provides physician network services. Commenter states that these entities then need to send the information to the DWC and that changing the timeframe to 15 business days is more</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Accept: Although DWC should be notified of any anticipated changes in the MPN Applicant’s eligibility status before it happens. (see §9767.14(a)(6)(A)), extending the timeline from five days to fifteen days is reasonable.</p>	<p>§9767.8(a)(2) is revised to delete “five” and replace it with “fifteen” business days.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	reasonable.			
9767.8(a)(2)	<p>Commenter recommends the following revised language:</p> <p>Change in the eligibility status of the MPN Applicant. Filing required within <u>fifteen (15) five (5)</u> business days of knowledge of a change in eligibility.</p> <p>Commenter understands the importance of an Applicant’s eligibility status, but opines that 5 business days is an unreasonably aggressive standard and changing the timeframe to 15 business days is more reasonable.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Accept: Although DWC should be notified of any anticipated changes in the MPN Applicant’s eligibility status before it happens (see §9767.14(a)(6)(A)), extending the timeline from five days to fifteen days is reasonable.</p>	<p>§9767.8(a)(2) is revised to delete “five” and replace it with “fifteen” business days.</p>
9767.8(a)(5)	<p>Commenter recommends the following revised language:</p> <p><b><u>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. Filing required within fifteen (15) business days of change.</u></b></p> <p>Commenter suggests adding “Filing</p>	<p>Mark Sektan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: This regulatory provision will be deleted in its entirety because as commenter points out, the number of providers can change suddenly. With the addition of Labor Code §4616(a)(4) and the requirement to update or refresh the MPN physician listing on a quarterly basis, this regulatory provision is no longer required.</p>	<p>§9767.8(a)(5) is deleted in its entirety.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>required within 15 business days of the change”. Commenter states that the number of providers can change suddenly and significantly with little or no notice. An MPN provider can choose to terminate their participation without notice. In addition, this will also allow the DWC to have a current list on file, not a proposed list.</p>			
9767.8(a)(5)	<p>Commenter recommends the following revised language:</p> <p>(a)(5) A <del>change</del> decrease of 10% or more in the number or <del>specialty type</del> of providers participating in the network since the approval date of the previous MPN Plan application or modification. <u>Filing required within thirty (30) business days of change.</u></p> <p>Commenter states that an increase in the number or type of providers will enhance, not jeopardize network accessibility and is therefore not a change that makes a modification and DWC review necessary. Commenter recommends confining the requirement to file an MPN Plan Modification to decreases of 10% or more. Commenter opines that requiring MPN applicants to file if the</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: This regulatory provision will be deleted in its entirety because the number of providers can change suddenly. With the addition of Labor Code §4616(a)(4) and the requirement to update or refresh the MPN physician listing on a quarterly basis, this regulatory provision is no longer required.</p> <p>Reject: Commenter recommends the use of the word “type” instead of “specialty” to describe how physicians are supposed to be categorized in an MPN physician listing. Labor Code §4616.3(d)(1) states,</p>	<p>§9767.8(a)(5) is deleted in its entirety.</p> <p>§9767.8(a)(5) is deleted in its entirety.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>number of and type of providers increase will unnecessarily expend resources of MPN applicants and the Division alike.</p> <p>Refer to her comment on section 9767.1(a)(25) regarding physician specialty.</p> <p>Commenter opines that within 30 business days is more reasonable because the number of providers can change suddenly and significantly with little or no notice, for example, if a statewide chain of clinics suddenly opts in or out of a network.</p>		<p>“Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s specialty or recognized expertise in treating the particular injury or condition in question.</p>	
9767.8(a)(5) and (a)(6)	<p>Commenter recommends the following revised language:</p> <p>“(5) A <del>change</del> <u>decrease</u> 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. <u>Filing required within twenty (20) business days of change.</u>”</p> <p>“(6) An <del>change</del> <u>increase</u> of 25% or more in the number of covered employees since the approval date of the previous MPN Plan application or</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>Reject: This regulatory provision will be deleted in its entirety because the number of providers can change suddenly. With the addition of Labor Code §4616(a)(4) and the requirement to update or refresh the MPN physician listing on a quarterly basis, this regulatory provision is no longer required.</p> <p>Reject: This regulatory provision will be deleted in its</p>	<p>§9767.8(a)(5) is deleted in its entirety.</p> <p>§9767.8(a)(6) is deleted in its entirety.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>modification. <u>Filing required within twenty (20) business days of change.</u>"</p> <p>Commenter states that paragraph (a) addresses the types of changes that necessitate an MPN plan modification and states that documentation shall be served on the Administrative Director (AD) within the stated time frames or if no time frame is stated, then <i>before</i> the change occurs.</p> <p>Commenter opines that the types of changes described in subdivisions (a)(5) and (a)(6) are those that can occur suddenly and without notice, prohibiting MPN applicants to serve the AD with proper documentation prior to the actual change occurring. To remedy this, commenter recommends adding filing timeframes to these two subdivisions.</p>		<p>entirety because the number of covered employees can change suddenly. With the revisions to §9767.3(a)(8)(A) where the MPN no longer needs to state the number of employees expected to be covered by the MPN plan but rather the MPN needs to affirm that the MPN network is adequate to handle the expected number of claims covered by the MPN, this regulatory provision is no longer required.</p>	
9767.8(a)(6)	<p>Commenter recommends the following revised language:</p> <p><b>A change of 25% or more in the number of covered employees since the approval date of the previous MPN Plan application or modification. <u>Filing required within (15) fifteen business days of the</u></b></p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: This regulatory provision will be deleted in its entirety because the number of covered employees can change suddenly. With the revisions to §9767.3(a)(8)(A) where the MPN no longer needs to state the number of employees expected to be covered by the</p>	<p>§9767.8(a)(6) is deleted in its entirety.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><b><u>change.</u></b></p> <p>Commenter suggests adding “Filing required within 15 business days of the change”. Commenter states that the number of covered employees can change suddenly and significantly without notice, for example as a result of a last minute policy change decision by a large employer.</p>		<p>MPN plan but rather the MPN needs to affirm that the MPN network is adequate to handle the expected number of claims covered by the MPN, this regulatory provision is no longer required.</p>	
9767.8(a)(6)	<p>Commenter recommends the following revised language:</p> <p><del>A change</del> <u>An increase of 25% or more in the number of covered employees since the approval date of the previous MPN Plan application or modification. Filing required within (30) thirty business days of the change.</u></p> <p>Commenter opines that a decrease in the number of covered employees will not jeopardize network accessibility and is therefore not a change that makes a modification and DWC review necessary. Commenter recommends confining the requirement to file an MPN Plan Modification to increases of 25% or more. Commenter opines that requiring MPN applicants to file if the</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: This regulatory provision will be deleted in its entirety because the number of covered employees can change suddenly. With the revisions to §9767.3(a)(8)(A) where the MPN no longer needs to state the number of employees expected to be covered by the MPN plan but rather the MPN needs to affirm that the MPN network is adequate to handle the expected number of claims covered by the MPN, this regulatory provision is no longer required.</p>	<p>§9767.8(a)(6) is deleted in its entirety.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>number of covered employees decreases by more than 25% will unnecessarily expend the resources of MPN applicants and the Division alike.</p> <p>Commenter opines that filing within 30 business days is more reasonable because the number of covered employees can change suddenly and significantly without notice, for example as a result of a last-minute policy change decision by a large employer.</p>			
9767.8(b)	<p>Commenter recommends the following revised language:</p> <p>The MPN applicant shall serve the Administrative Director with a Notice of MPN Plan Modification within 30 business days of a change of the DWC liaison, authorized individual or eligibility status of the MPN applicant. Failure to file the updated information within the requisite time frame may result in penalties pursuant to section 9767.19.</p> <p>Commenter states penalties imposed for not submitting material modifications within the required</p>	<p>Bob Mortensen Anthem Insurance August 19, 2013 Written Comment</p>	<p>Reject: Most of the text of §9767.8(b) will be deleted because it merely reiterates the above subdivisions. The last sentence will remain that adopts the changes made to the timeframes expressed in the above subdivisions.</p>	<p>§9767.8(b) is revised to state “Failure to file a material modification within the requisite time frame may result in administrative actions pursuant to section 9767.14 and/or 9767.19.”</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	timeframes.			
9767.8(b)	<p>Commenter recommends the following revised language:</p> <p><b>(b) The MPN applicant shall serve the Administrative Director with a Notice of MPN Plan Modification within <u>fifteen (15) business days of a change of the DWC liaison, or authorized individual, MPN name or MPN applicant name, and within five (5) business days of a change in eligibility status of the MPN applicant. Failure to file the updated information within the requisite time frame may result in administrative actions pursuant to sections 9767.14 and/or 9767.19.</u></b></p> <p>Commenter understands the importance of an Applicant's eligibility status but he opines that 5 business days is an extremely aggressive standard. Commenter states that this does not provide sufficient time to notify third party administrators or an Entity that provides physician network services. These entities then need to send the information to the DWC. Commenter</p>	<p>Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment</p>	<p>Reject: Most of the text of §9767.8(b) will be deleted because it merely reiterates the above subdivisions. The last sentence will remain that adopts the changes made to the timeframes expressed in the above subdivisions.</p>	<p>§9767.8(b) is revised to state "Failure to file a material modification within the requisite time frame may result in administrative actions pursuant to section 9767.14 and/or 9767.19."</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	opines that changing the timeframe to 15 business days is more reasonable.			
9767.8(b)	<p>Commenter recommends the following revised language:</p> <p>The MPN applicant shall serve the Administrative Director with a Notice of MPN Plan Modification within <del>fifteen (15)</del> <u>twenty (20)</u> business days of a change of the DWC liaison, authorized individual, MPN name, or MPN applicant name, and within <del>five (5)</del> <u>twenty (20)</u> business days of a change in eligibility status of the MPN applicant. Failure to file the updated information within the requisite time frame may result in administrative actions pursuant to sections 9767.14 and/or 9767.19.</p> <p>Commenter notes that the proposed subsection (b)(1) gives an MPN the respective 15 business days, and 5 business days to serve specific plan modification changes to AD. Commenter opines it is more reasonable to allow 20 business days for the aforementioned subsection as each change would involve significant work processes.</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	<p>Reject: Most of the text of §9767.8(b) will be deleted because it merely reiterates the above subdivisions. The last sentence will remain that adopts the changes made to the timeframes expressed in the above subdivisions.</p>	<p>§9767.8(b) is revised to state “Failure to file a material modification within the requisite time frame may result in administrative actions pursuant to section 9767.14 and/or 9767.19.”</p>
9767.8(b)	Commenter recommends the	Brenda Ramirez		

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>following revised language:</p> <p>(b) The MPN applicant shall serve the Administrative Director with a Notice of MPN Plan Modification within fifteen (15) business days of a change of the <del>DWC liaison, authorized individual, MPN name, or MPN applicant name, and within five (5) business days of a change in eligibility status of the MPN applicant. Failure to file the updated information within the requisite time frame may result in administrative actions pursuant to section 9767.14 and/or 9767.19.</del></p> <p>Commenter opines that the submission requirement regarding a change of DWC liaison or authorized individual is not necessary in this subsection because it is addressed in (a)(3).</p> <p>Commenter opines that the submission requirement regarding a change of eligibility status is also not necessary in this subsection because it is addressed in (a)(2).</p> <p>Commenter states that the warning regarding potential administrative actions is unnecessary as they are</p>	<p>Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: Most of the text of §9767.8(b) will be deleted because it merely reiterates the above subdivisions. The last sentence will remain that adopts the changes made to the timeframes expressed in the above subdivisions.</p> <p>Accept: See above response.</p> <p>Accept: See above response.</p> <p>Reject: See above response.</p>	<p>§9767.8(b) is revised to state "Failure to file a material modification within the requisite time frame may result in administrative actions pursuant to section 9767.14 and/or 9767.19."</p> <p>See above action.</p> <p>See above action.</p> <p>See above action.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	addressed in associated MPN sections.			
9767.8(c)	Commenter opines that the material modification cover page should include this affirmation.	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment	Accept: It does.	None.
9767.8(d)	<p>Commenter recommends the following revised language:</p> <p>Except for subdivisions (a)(2), (a)(3), (a)(5), (a)(6), and (b) of this section, 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.</p> <p>Commenter notes that paragraph (d) addresses timeframes in which the AD must act upon receipt of a Notice of MPN Plan Modification. It also states that with the exception of subsections (a)(2), (a)(3), and (b), modifications shall not be made until the AD has approved the plan or until 60 days</p>	<p>Jose Ruiz, Director Corporate Claims</p> <p>Rick J. Martinez Medical Networks Manager</p> <p>Yvonne Hauscarriague Assistant Chief Counsel State Compensation Insurance Fund September 30, 2013 Written Comment</p>	Reject: The regulatory text of §§9767.8(a)(5) and (a)(6) will be deleted in its entirety. See responses above.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>have passed, which ever occurs first.</p> <p>Commenter opines that the modifications described in subdivisions (a)(5) and (a)(6) can occur suddenly and without notice, and may likely happen before the AD approves the plan or before 60 days have passed. Commenter recommends adding these modifications to the list of subsections exempt from these requirements.</p>			
9767.8(j)	Commenter opines that the suggested revisions made to the application cover page should apply here also.	Bob Mortensen Anthem Insurance August 19, 2013 Written Comment		
9767.8(j)	<p>Commenter recommends the following revised language to the Notice of MPN Plan Modification form:</p> <p><input type="checkbox"/> <b><u>Change in MPN Applicant eligibility status. Provide date of change in eligibility and reason for change. Must file within fifteen five (5) business days of change in status.</u></b></p> <p><input type="checkbox"/> Change of 10% or more in the number or specialty of Network Providers since the approval date of the previous MPN Plan application or</p>	Mark Sektnan, President Association of California Insurance Companies (ACIC) September 30, 2013 Written Comment	Accept: The form will be changed to indicate fifteen days instead of five.	Item #9 is re-numbered to Item#7 and the box that indicates a Change in MPN eligibility status is revised to delete “five” and replace it with “fifteen” (15) business days of change in status.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>modification: Provide the name, and location of each physician by specialty type or name provider, if other than physician. Submission within 15 business days of the change.</p> <p><input type="checkbox"/> Change of 25% or more in the number of covered employees since the approval date of the previous MPN Plan application or modification. Submission within 15 business days of the change.</p> <p>Commenter states that the suggested changes conform to the comments he made regarding section 9767.8(a).</p>		<p>Reject: This requirement will be deleted in its entirety.</p> <p>Reject: This requirement will be deleted in its entirety.</p>	<p>Item #9 is re-numbered to Item#7 and the box that indicates a Change of 10% is deleted in its entirety.</p> <p>Item #9 is re-numbered to Item#7 and the box that indicates a Change of 25% is deleted in its entirety.</p>
9767.8(j)	<p>Commenter recommends the following revisions to the Notice of Medical Provider Network Plan Modification:</p> <p>1. <del>Legal</del> Name of MPN Applicant _____</p> <p>Commenter opines that adding “Legal” is not necessary and because its intended meaning is not clear it will cause confusion and disputes. Commenter states that if the word remains, its intended meaning must be clarified.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: Legal name of MPN Applicant is required because that is what DWC will use to confirm eligibility status.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.8(j)	<p>Commenter recommends the following revisions to the Notice of Medical Provider Network Plan Modification:</p> <p>5. <del>Type</del> <u>Eligibility Status</u> of MPN</p> <p><u>Applicant</u></p> <hr/> <p><input type="checkbox"/> Self-Insured Employer    <input type="checkbox"/></p> <p><u>Insurer (including CIGA, State Fund)</u></p> <p><input type="checkbox"/> Group of Self-Insured Employers</p> <hr/> <p><input type="checkbox"/> <u>Self-Insured Security Fund</u></p> <p><input type="checkbox"/> Joint Powers Authority    <input type="checkbox"/> State</p> <p><input type="checkbox"/> <u>TPA</u></p> <p><input type="checkbox"/> Entity that provides physician network services</p> <p>If the DWC already has this information pursuant to the original application process, commenter recommends deleting 5 because it is</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Reject: Item #5 will be deleted in its entirety because it is unnecessary because DWC will already have this information in the original MPN Application.</p>	<p>Item #5 is deleted in its entirety.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>not necessary.</p> <p>If it does not, commenter states that the recommended changes make the Notice Modification consistent with the MPN application cover and the regulations.</p> <p>Commenter states that State Compensation Insurance Fund, not the Self-Insured Security Fund, is included in the definition of Insurer. Please note her comments on MPN Applicant in section 9767.1(a)(19) regarding TPAs.</p>			
9767.8(j)	<p>Commenter recommends the following revisions to the Notice of Medical Provider Network Plan Modification:</p> <p><del>6. Dates of last plan modifications approval:</del></p> <p>Commenter opines that since the DWC already has this information that this selection should be deleted because it is unnecessary.</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Accept: Item #6 will be deleted in its entirety because it is unnecessary since DWC will already have this information.</p>	<p>Item #6 is deleted in its entirety.</p>
9767.8(j)	<p>Commenter recommends the following revisions to the Notice of Medical Provider Network Plan Modification:</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers'</p>	<p>Reject: Item #8 will be re-numbered to Item #6 but is necessary because the Authorized Individual will be</p>	<p>Item #8 is re-numbered to Item #6.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>8. Authorized Liaison to DWC:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Name _____ Title _____</p> <p>_____ Organization _____</p> <p>_____</p> <p>Phone _____ Email _____</p> <p>_____</p> <p>Address _____ Fax number _____</p> <p>Commenter opines that since the DWC already has this information that this selection should be deleted because it is unnecessary.</p>	<p>Compensation Institute (CWC I) September 30, 2013 Written Comments</p>	<p>signing this form.</p>	
<p>9767.8(j)</p>	<p>Commenter recommends the following revisions to the Notice of Medical Provider Network Plan Modification:</p> <p>Number 9</p> <p><input type="checkbox"/> Change in MPN Applicant eligibility status. Provide date of change in eligibility and reason for change. Must file within <del>five (5)</del> <u>fifteen (15)</u> business days of change in status.</p> <p><input type="checkbox"/> <del>Change</del> <u>Decrease</u> of 10% or more in</p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers' Compensation Institute (CWC I) September 30, 2013 Written Comments</p>	<p>Accept: The form will be changed to indicate fifteen days instead of five.</p> <p>Reject: This requirement will</p>	<p>Item #9 is re-numbered to Item#7 and the box that indicates a Change in MPN eligibility status is revised to delete "five" and replace it with "fifteen" (15) business days of change in status.</p> <p>Item #9 is re-numbered to Item#7</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>the number or <del>specialty type</del> of Network Providers since the approval date of the previous MPN Plan application or modification: Provide the name, and location of each physician by <del>specialty</del> type or name provider, if other than physician. <u>Filing required within (30) thirty business days of the change.</u></p> <p>Please refer to her comment on section 9767.1(a)(25) regarding physician specialty.</p> <p>Commenter opines that filing within 30 business days is more reasonable because the number of providers can change suddenly and significantly with little or no notice, if, for example, a statewide chain of clinics suddenly opts in or out of a network.</p>		<p>be deleted in its entirety.</p> <p>Reject: Commenter recommends the use of the word “type” instead of “specialty” to describe how physicians are supposed to be categorized in an MPN physician listing. Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s specialty or recognized expertise in treating the particular injury or condition in question.</p>	<p>and the box that indicates a Change of 10% is deleted in its entirety.</p> <p>None.</p>
9767.8(j)	<p>Commenter recommends the following revisions to the Notice of Medical Provider Network Plan Modification:</p> <p>Number 9</p> <p><input type="checkbox"/> Change of employee notification materials, including a change in MPN contact, <del>or</del> <u>Medical Access Assistants</u></p>	<p>Brenda Ramirez Claims &amp; Medical Director California Workers’ Compensation Institute (CWCI) September 30, 2013 Written Comments</p>	<p>Accept in part: Item #9 is re-numbered to Item #7 and will be revised to add the word “contact” after the phrase “Medical Access Assistants” to specify what change to an MPN Medical Access</p>	<p>Item #9 is re-numbered to Item#7 and the box that indicates a Change of employee notification materials is revised to add the word</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>information, or a change in provider listing access or MPN website information: Provide a copy of the revised notification materials.</p> <p>Commenter notes that unless the AD specifies exceptions such as for changes to comply with statutory or regulatory changes, every MPN must submit a Plan Modification and copies of revised notification materials. Commenter recommends that the Administrative Director consider exempting changes made to comply with statutory or regulatory timeframes or adjusting the submission timeframes for these changes.</p>		Assistant requires a filing of a Notice of MPN Plan Modification.	“contact” after Medical Access Assistants to clarify when this form will need to be filed.
9767.9	<p>Commenter has previously recommended that this section be repealed as it is not authorized by statute and it violates case law as set forth in <i>Voss v. Workmen's Comp. Appeals Bd.</i> (1974) 10 Cal.3d 583 and <i>Zeeb v. Workmen's Comp. Appeals Bd.</i> (1967) 67 Cal.2d 496.</p> <p>Commenter opines that this position was confirmed by the Legislature's adoption of Labor Code section 4603.2(a)(2) in SB 863. That new</p>	California Applicants' Attorneys Association September 29, 2013 Written Comment	Reject. There is no conflict between Labor Code §4603.2(a)(2) and the regulations of §9767.9. Labor Code §4603.2(a)(2) would apply in a very specific situation where an employer objects to an injured employee's selection of a physician on the grounds that the physician is not within the medical provider network used by the employer, and there is a	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>paragraph provides that where an employer objects to the employee's selection of a non-MPN physician, and there is a final decision that the employee was entitled to select that physician, the employee is entitled to continue treatment with that physician. Commenter states that this paragraph reflects the recognition by the Legislature that once a successful doctor / patient relationship has been established, it is not in the best interest of either the patient / employee or the system to break that relationship.</p> <p>Commenter opines that section 9767.9 is directly contrary to this new statutory provision and urges the Division to repeal this section in its entirety.</p> <p>As an alternative, if this section is not repealed commenter proposes that the language "or a final determination by the board." be added to the end of subdivision (a).</p>		<p>final determination that the employee was entitled to select the physician pursuant to Labor Code §4600. Although a dispute as described in Labor Code §4603.2(a)(2) can certainly arise when an MPN attempts to transfer care of an injured worker into an MPN, the elements enumerated must be present. In situations where the elements of Labor Code §4603.2(a)(2) are not present, transfer of care into an MPN pursuant to §9767.9 is appropriate.</p> <p>Reject: To transfer care into an MPN does not require “a final determination by the board.” However, if there is a dispute that arises when attempting to transfer care into an MPN and there is a final determination by the board that the employee was entitled to select the physician pursuant to Labor Code §4600, then transfer of care would be inappropriate.</p>	None.
General Comment	Commenter states that the regulations	Erin Van Zee	Reject: There are many	None.

<b>MEDICAL PROVIDER NETWORKS</b>	<b>RULEMAKING COMMENTS 45 DAY COMMENT PERIOD</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
	<p>detail changes to the MPN operating requirements, which include physician acknowledgements, Internet Web site postings of providers, medical access assistants, quality of care, geocoding and MPN disclosure requirements to medical providers. Commenter would like to know how the DWC defines “quality of care” with regard to MPN operating requirements. Commenter would also like the definition for “MPN Disclosures.”</p>	<p>Manager Medical Networks Promesa Health August 21, 2013 Written Comment</p>	<p>definitions of “quality of care” and these regulations cannot address the various definitional nuances of this term. As used in these regulations, it can generally be defined as the degree to which health services for injured workers’ increase the likelihood of desired health outcomes and are consistent with current professional knowledge. Reject: The term “MPN Disclosures” is not used in these regulations.</p>	