

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.12(a), (a)(1) and (b)	<p>Commenter suggests the following revision:</p> <p>(a) An employer or insurer that offers a Medical Provider Network Plan under this article <u>or an insured employer whose insurer offers a Medical Provider Network Plan under this article</u> shall notify each covered employee in writing about the use of the Medical Provider Network 30 days prior to the implementation of an approved MPN <u>at the time the employees of the employer or insured employer first become covered by an MPN, at the time of hire, or when an existing employee transfers into the employee's treatment is proposed to be transferred into an MPN,</u> whichever is appropriate to ensure that the employee has received the initial notification. <u>This subdivision shall not require a notice of a change of MPN whether due the employer changing its MPN, due to the insured employer changing insurance carriers, or due to a modification of an MPN.</u></p> <p>(1) The notification shall inform the employee of the fact that treatment for</p>	Sean McNally Grimway April 20, 2010 Written Comment	<p>Accept in part, Reject in part.</p> <p>The distribution of the notices will be further limited but language other than the suggested language will be used to do so that better fits with the existing proposed language.</p>	The implementation notice will be required to only be distributed if employers are not changing MPNs within 60 days.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><u>occupational injury or illness shall be obtained only through the MPN, that the initial medical evaluation shall be arranged by the employer, and the employee may be treated by a physician of his or her choice from the MPN after the first visit. The notification shall inform the employee of the right to predesignate a personal physician. The notification shall inform the employee of the means of obtaining further information at any time and of the means of reporting an injury and obtaining an employer-arranged evaluation.</u></p> <p><u>(b) The A written notification shall also be sent to a covered employee at the time of injury. The notification(s) shall be written in English and Spanish. The initial written notification shall include the following information:</u></p> <p>Commenter opines that these notice requirements are particularly troublesome to insured employers that change insurers from time to time. Commenter recalls reading that that the average employer changes insurers</p>		<p>Accept in part, Reject in part.</p> <p>The distribution of the notices will be further limited but language other than the suggested language will be used to do so that better fits with the existing proposed language.</p>	<p>The implementation notice will be required to only be distributed if employers are not changing MPNs within 60 days.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>every two or three years. Because the MPN is established by the insurer or self-insured employer (LC 4616(a), 4616.5), every change of insurance carrier involves a change in MPN. Since liability for treatment remains with the insurer at the time of injury, employees with different dates of injury may be receiving treatment under different MPNs. To further complicate the situation, a former insurer which is still furnishing treatment through an MPN might replace or modify its MPN, necessitating still more notices.</p> <p>Committer suggests that there is no need to notify uninjured employees of the specific details of the MPN which is in place from time to time. This information should certainly be available, but it is a waste of time and money to send every employee detailed information about a medical network that most of them will never use.</p> <p>Every employee needs to know whether he or she will obtain treatment if injured through an MPN,</p>			

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>an HCO, or 30-day control followed by free choice. This general notice should be given at the time of hire and any time the employer changes from one to another of these three models. Uninjured employees have no further need for the specifics of where to go for treatment and whom to call with questions about the network, provided that this more detailed and changeable information always available upon request and that it is affirmatively delivered when the immediate need arises.</p> <p>As soon as a worker is injured, the worker's needs for information will change. Now he or she needs to know where to obtain treatment and how to resolve problems or get questions answered. These needs can be fulfilled by a detailed notice to the employee at the time the injury is reported, by bulletin board postings, and by giving the employee a contact person at the employer who can direct the employee to the contact person for the MPN. This is the time when it becomes appropriate to deliver all of the information specified by Rule</p>		<p>Accept in part, Reject in part.</p> <p>The distribution of the notices will be further limited but language other than the suggested language will be used to do so that better fits with the existing proposed language.</p> <p>Accept. The proposed regulations require a worker to get the detailed notice of MPN procedures at time of injury.</p>	<p>The implementation notice will be required to only be distributed if employers are not changing MPNs within 60 days.</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	9767.12(a).			
9767.12 (c)	<p>Commenter requests that the following subsection be deleted:</p> <p>e) Covered employees shall be notified 30 days prior to a change of the medical provider network. If the MPN applicant is an insurer, then a copy of the notification shall be served on the insured employer. The notification shall be written in English and Spanish.</p>	<p>Sean McNally Grimway April 20, 2010 Written Comment</p>	<p>Accept. The MPN statutes do not require a notice period for a change of MPN.</p>	<p>The notice period will be eliminated and the notices will be required to be provided before a change of MPN occurs.</p>
9767.16(a), (a)(1)	<p>Commenter suggests the following revisions:</p> <p>(a) The Medical Provider Network ("MPN") Applicant is responsible for ensuring that each covered employee who has received treatment through the MPN is informed in writing of the MPN policies under which he or she is covered and when the employee is no longer covered by an MPN. The MPN Applicant shall ensure each covered</p>	<p>Sean McNally Grimway April 20, 2010 Written Comment</p>	<p>Accept in part, Reject in part.</p>	<p>Only covered employees who are injured will receive the change of MPN and termination/cessation of MPN notices.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>employee <u>who has received treatment through the MPN within 24 months prior to the date of termination of cessation of use of the MPN</u> is given written notice of the date of termination or cessation of use of its MPN. The written notice shall be provided to covered employees prior to the effective date of termination or cessation of use of an MPN. The notices required by this section shall be made available in English and Spanish.</p> <p>(1) The MPN Applicant shall advise every covered employee <u>who has received treatment through the MPN</u> of the following information in all notices of termination or cessation of use of an MPN by an MPN Applicant or insured employer:</p>			
9767.16(a)(2) and (a)(2)(B)	<p>Commenter suggests the following revisions:</p> <p>(2) If an MPN Applicant or insured employer is also changing MPN coverage to a different MPN, the MPN Applicant is responsible for ensuring</p>	Sean McNally Grimway April 20, 2010 Written Comment	Accept in part, Reject in part.	Only covered employees who are injured will receive the change of MPN and termination/cessation of MPN notices.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>that every covered employee <u>who has received treatment through the MPN</u> is given notice of the following information in addition to the information required for an MPN termination or cessation of use:</p> <p>(B) Notice that is required by sections 9767.12(a) and (e)(b) for new MPN coverage and for a change of MPNs.</p> <p>Commenter states that once an employee is receiving treatment within an MPN, the employee also needs to know of any changes that affect his or her access to care, rights to continuity of care, and changes in the routes for dispute resolution. This is the time when it becomes appropriate to deliver all of the information specified by Rule 9767.16.</p> <p>Commenter opines that it does not appear that all of these notices are mandated by statute. The only notice explicitly required by the MPN statutes is Labor Code Section 4616.2(c), requiring notice of the continuity of care policy to “all</p>			

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>employees entering the workers' compensation system," which means employees who are injured or reporting injury. If it were meant to be all employees, it would not need the modifying words, "entering the workers' compensation system." Commenter has found nothing in the statutes to require notice to every employee every time there is a change or modification in the MPN plan. The rationale for existing Rule 9767.12 is:</p> <p style="padding-left: 40px;">"It is necessary that insurers or employers who offer a MPN provide information about the MPN and its procedures so that the injured employees are able to access the appropriate medical treatment. Also, covered employees must be advised of their rights within the MPN in order to be able to enforce their rights, if necessary."</p> <p style="padding-left: 40px;">(Addendum to Final Statement of Reasons, September 8, 2005.)</p> <p>The stated rationale would make sense if the detailed notices were addressed only to workers who have reported</p>			

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	injuries. It is debatable whether it is necessary or even useful to give detailed notice of rights to people who have no immediately foreseeable need for that information every time an employer changes insurers and every time an insurer modifies its MPN.			
9767.16(c) and (c)(1)	<p>Commenter suggests the following revisions:</p> <p>(c) Notice of a change of MPNs shall be transmitted by the MPN Applicant providing the new MPN coverage to the Division, not less than 45 calendar days prior to the effective date of the termination or cessation of use of the MPN. A written letter signed by the MPN Applicant's authorized individual shall be submitted to DWC stating the effective date of the termination or cessation of use of the prior MPN, the planned effective date of the new MPN coverage, and shall attach a copy of the employee notice(s) to be sent to the covered employees pursuant to this section. The notices of a change of MPNs shall not be distributed without approval from DWC. If a notice is timely filed and DWC does not act by the date the</p>	Sean McNally Grimway April 20, 2010 Written Comment	Reject. This comment concerns existing language that has been proposed to be deleted.	None.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>notice should be distributed, then the notice shall be deemed approved.</p> <p>(1) If a change in MPN coverage results in modifications to an MPN's plan application or results in the filing of a new MPN application, the MPN modification or new application filing shall be submitted to DWC pursuant to section 9767.8 or 9767.3, whichever is applicable. Distribution to covered employees of the 30-day notice of a change of MPNs shall occur after DWC's approval of an MPN modification or new MPN.</p>		Accept the deletion of the notice period.	The notice period will be deleted.
9767.12(a)	Commenter questions how he is supposed to determine whether or not the person is exclusively Spanish Speaking in order to only send out the Spanish Notice.	Richard Herzog Sedgwick CMS April 22, 2010 Written Comment	Reject. It is the employer's responsibility to know what language is needed to communicate with its employees.	None.
Regulation Effective Date	Commenter reiterates his prior suggestion that the effective date of these regulations be coordinated with the proposed pharmacy benefit network regulations. Revisions made to both sets of regulations should be considered when the DWC revises the Written Notice to New Employees and the Posting Notice. These regulations	Joe Carresi Project Manager Southern California Edison May 3, 2010 Written Comment	Reject. It is unclear when and if the proposed pharmacy benefit regulations will go into effect.	The regulations will become effective 60 days after they are adopted to allow time to revise all required notices and postings.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>should not become effective for a minimum of 120 days after the date of adoption.</p> <p><u>Discussion</u></p> <p>The proposed MPN notices will require a considerable revision of a number of pamphlets and publications. At the same time, the regulations also require employers to begin using revised posting notices and a revised NOPE/DWC-1 claim form. The regulations also require that certain notices be published in Spanish and these materials will have to be translated, produced and delivered to all business units. This will be a monumental task to ensure that all of the postings have been revised and posted in each work location. The proposed notices will also require changes to document contained in New Hire documents as well as claim reporting packages. Section 9880(a) request the content of the Written Notice to New Employees notice be approved by the Administrative Director before it can be used. This requirement will inundate the AD with requests to review and approve the notices and will likely delay being able to produce the documents.</p>			
9767.12 – Posting Notice	Commenter reiterates his previous suggestions that the regulation allow the	Joe Carresi Project Manager	Reject. A posting of a single employee notification near the	None.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>employer the option of providing the MPN information by posting the notice, rather than mailing individual written notices to every covered employee. Commenter states that the requirement to post the complete MPN notice, in addition to the written notices, should be deleted.</p> <p><u>Discussion</u> The posting requirement will add additional burden and cost to employers, especially large employer like SCE that have a considerable number of work locations in the state of California.</p> <p>If the Division decides to continue to require mailing individual written notices to every covered employee, then the regulation should not require both posting and written notices. The addition of a separate posting notice is redundant and unnecessary in that case and should be deleted.</p>	<p>Southern California Edison May 3, 2010 Written Comment</p>	<p>already required DWC poster is not burdensome.</p>	
<p>9767.12(e); 9767.16(a)(3); 9767.16 (f)</p>	<p>Commenter references the following sentence:</p> <p><u>“If the employee cannot received this notice electronically at work within the required time frame, then the supervisor employer ensure this information is provided this information to the employee in writing</u></p>	<p>Joe Carresi Project Manager Southern California Edison May 3, 2010 Written Comment</p>	<p>Reject. The proposed language is meant to address prior comments concerning giving flexibility on who can distribute the information while keeping the employer responsible for ensuring the information is provided.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><u>at least 14 days prior to . . .”</u></p> <p><u>Discussion</u> The proposed language in these sections is not consistent with other statutory/regulatory language and should be consistent with such. It is therefore recommended that the proposed language be changed to read as follows:</p> <p><i>“If the employee cannot received this notice electronically at work within the required time frame, then the employer shall provide this information to the employee in writing at least 14 days prior to ...”</i></p>			
9767.12(f)(1)	<p>Commenter finds the proposed language unnecessary and believes that it lacks purpose. If the employer or insurer provides a toll-free telephone number the expectation is that a caller can reach the MPN contact if the number is dialed. Commenter recommends that the language be changed to read:</p> <p><i>“How to contact the person designated by the employer or insurer to be the MPN Contact for covered</i></p>	<p>Joe Carresi Project Manager Southern California Edison May 3, 2010 Written Comment</p>	<p>Reject. The proposed language makes clear that the MPN contact must be reachable by calling the toll free number.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><i>employees to answer questions about MPNs and to address MPN problems. The employer or insurer shall provide a toll-free telephone number if the MPN geographical service area includes more than area code”</i></p>			
9767.12(f)(3)	<p>Commenter recommends changing the last sentence of the section as follows:</p> <p><i>“If a listed provider becomes deceased or is no longer treating workers’ compensation patients at the listed address the provider shall be taken of the provider list within 30 days of the MPN contact receiving knowledge.”</i></p> <p><u>Discussion</u> Often times the MPN contact is not notified or does not have knowledge that a change has occurred with a provider(s) in their respective MPN. Therefore, the only way provider information/provider listings can be updated is when the MPN contact has knowledge of such.</p>	<p>Joe Carresi Project Manager Southern California Edison May 3, 2010 Written Comment</p>	<p>Accept in part, Reject in part.</p> <p>The substance of the comment to give a clearer reference point for the time frame is accepted, but the suggested language is rejected.</p>	<p>The regulations have been revised to give the MPN administrator 60 days from date of notice of a provider’s inability to treat workers’ compensation patients to remove the provider from the MPN listing.</p>
9767.12	<p>Commenter opposes the proposed change to Subdivision (a) which is revised to state that notices are to be given in Spanish "where there are</p>	<p>Adam Dombchik President California Applicants’</p>	<p>Accept in part, Reject in part. The proposed language will be revised to clarify the language requirement for notices.</p>	<p>The proposed regulations will be revised to require notices in English</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Spanish-speaking employees." This proposed language appears similar to the language in the original proposal initially issued by the Division in August, 2009. As with the original proposal, the fundamental problem with this proposed language is that it violates the requirement of Labor Code section 124(b) which mandates:</p> <p style="text-align: center;">"(b) Forms and notices required to be given to employees by the division shall be in English and Spanish."</p> <p>Furthermore, like the originally proposed language, commenter finds this proposal is unworkable. How will the MPN applicant know whether there are "Spanish-speaking employees?" And who is to be considered a "Spanish-speaking employee?" The fact is that in many areas of California almost every employer will have at least one employee who is "Spanish-speaking." Rather than simplifying the process, commenter believes that the proposed revision will only create more disputes</p>	<p>Attorneys Association (CAAA) May 6, 2010 Written Comment</p>		<p>and also in Spanish to Spanish speaking employees.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>and more costs for employers. Commenter urges the Division to maintain the current language that mandates that notices be provided in both English and Spanish. Commenter opines that identical changes in sections 9767.12(d), 9767.12(g), 9767.16(a), and 9767.16(e) should be likewise amended to state that the notices shall be provided in both English and Spanish.</p>			
9767.16(a)(3) and (f)(5)	<p>Commenter states are several typographical errors in the text of this section. The text on page 17, section 9767.16(a)(3) and on page 18, section 9767.16(f)(5) mistakenly omits the word "shall" in the following clause:</p> <p style="text-align: center;">"then the employer <u>shall</u> ensure this information is provided to the employee in writing...."</p>	<p>Adam Dombchik President California Applicants' Attorneys Association (CAAA) May 6, 2010 Written Comment</p>	Accept.	The word "shall" has been included in the proposed regulation sections.
9767.12 and 9767.16 – Employee Notices	<p>Commenter states that there are several sentences in these proposed regulations stating that the MPN notice shall be provided in English and Spanish that include the phrase, "where there are Spanish speaking employees." Within the DWC's</p>	<p>Kathleen Burrows Claims Operations Manager – State Compensation Insurance Fund May 6, 2010 Written Comment</p>	Accept in part, Reject in part. The proposed language will be revised to clarify the language requirement for notices.	The proposed regulations will be revised to require notices in English and also in Spanish to Spanish speaking employees.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Notice of Modification to text of Proposed Regulations it states: Notices are to be given in Spanish “where there are Spanish-speaking employees.”</p> <p>Commenter opines that by including the above phrase in the various regulations, the identified MPN notices must be written <u>and</u> provided in English <u>and</u> Spanish to all employees when Spanish speaking employees are in the workforce, regardless if the employee is a non-Spanish speaking employee. It is appropriate to provide some MPN notices in both English and Spanish when the information provided is for mass distribution and not addressed to a specific individual. MPN notices provided specifically to injured employee should be provided in the language(s) most appropriate for that individual. Commenter suggests that the phrase, “where there are Spanish speaking employees,” be deleted from all proposed regulations to allow employees who do not require Spanish written notices to receive notices provided in English only, when the</p>			

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>notices are not part of a mass distribution.</p>			
9767.12(a)	<p>Currently the MPN notifications to employees are written in English and Spanish. Since the initial MPN implementation notices are typically provided on a mass distribution basis and most employers have Spanish speaking employees, requiring that all initial MPN implementation notices to be provide in both English and Spanish will prevent litigation disputes where an employee claims the employer failed to provide the initial MPN implementation notice in the correct language.</p> <p>Recommendation Commenter recommends the following text:</p> <p>a) An employer or insurer that offers a Medical Provider Network Plan under this article shall notify every covered employee in writing about the use of the Medical Provider Network at least 14 days prior to the implementation of an approved MPN or at the time of hire for new employees. The notification shall also be sent to a</p>	<p>Kathleen Burrows Claims Operations Manager – State Compensation Insurance Fund May 6, 2010 Written Comment</p>	<p>Reject. The proposed language will be revised to clarify the language requirement for notices.</p>	<p>The proposed regulations will be revised to require notices in English and also in Spanish to Spanish speaking employees.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	covered employee at the time of injury. The initial MPN implementation notice shall be provided in both English and Spanish where there are Spanish speaking employees . The initial written MPN implementation notice to all covered employees shall, at a minimum, include the following information:			
9767.12(c)	While it is important to provide employees with information regarding the MPN and how to obtain medical treatment for work related injuries and other benefits they are entitled too, it is unclear what the DWC specifically means by, “the employer shall <i>ensure this information</i> is provided to the employee in writing prior to the implementation of the MPN.” It appears that the DWC is raising the bar for employers to prove that they have provided the required information and may require increased employee recordkeeping on the part of the employer. Most employers are small employers and do not have a dedicated individual, human resource department or budget to incur additional employee recordkeeping costs and responsibilities.	Kathleen Burrows Claims Operations Manager – State Compensation Insurance Fund May 6, 2010 Written Comment	Reject. The proposed language is meant only to address prior comments concerning giving flexibility on who can distribute the information while keeping the employer responsible for ensuring the information is provided.	None.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Recommendation Commenter provides the following text:</p> <p>c) The initial written MPN implementation notice shall be provided to existing employees who will be covered by the MPN at least 14 days prior to the date coverage will begin under the MPN or at the time of hire for new employees. The initial MPN notification may be provided by mail or included on or with an employee’s paystub, paycheck or distributed through electronic means, including email, if the employee has regular electronic access to email at work to receive this notice at least 14 days prior to the implementation of the MPN. If the employee cannot receive this notice electronically at work within the required time frame, then the employer shall ensure this information is provided this information to the employee in writing at least 14 days prior to the implementation of the MPN.</p>			
9767.12(d)	The phrase “ where there are Spanish speaking employees, ” requires MPN	Kathleen Burrows Claims Operations	Accept in part, Reject in part. The proposed regulatory	The proposed regulations will be

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>notices must be provided in English and Spanish to all employees of an employer who employs Spanish speaking employees. This requirement does not appear to be based on the injured employee’s specific needs, but on the demographics of the employer’s workforce. This will require employers and insurers to send additional and unnecessary notices to non-Spanish speaking injured employees. If the DWC wishes that the MPN notification sent to all injured employees to be in both English and Spanish, it should be clearly stated without the modifier “where there are Spanish speaking employees.” If the DWC requires that only Spanish speaking employees are to be provided with the MPN notifications sent in English and Spanish, then this should be clearly stated. By providing the qualifier, “where there are Spanish speaking employees,” it appears the DWC recognizes there may be times when providing the MPN notification in both languages is not required, but this is not expressly stated in the way the regulation is written. All notices sent</p>	<p>Manager – State Compensation Insurance Fund May 6, 2010 Written Comment</p>	<p>language will be revised to clarify the language requirement for notices.</p>	<p>revised to require notices in English and also in Spanish to Spanish speaking employees.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>to an injured employee need to be clear and concise and provided in the appropriate language(s) based on the injured employee’s needs.</p> <p>Since the MPN employee notification posting in the workplace is required to be posted in both English and Spanish, it is unnecessary to include the phrase, “where there are Spanish speaking employees.”</p> <p>Recommendation Commenter provides the following text:</p> <p>d) Separate from the initial MPN implementation notice, a complete written MPN employee notification with the information specified in subdivision (f) about coverage under the MPN shall be provided to covered employees at the time of injury and when an employee is transferred into the MPN. This MPN notification shall be provided to employees in English and Spanish where there are Spanish speaking employees. Before MPN coverage is implemented, the complete written MPN employee</p>			

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	notification shall also be posted in both English and Spanish where there are Spanish speaking employees in a conspicuous location frequented by employees during the hours of the workday and in close proximity to the workers' compensation posting required under section 9881.			
9767.12(e)	<p>Commenter opines that it appears that the DWC is raising the bar employers must meet to prove that they have provided the required MPN notification information. Requiring employers to incur increased employee recordkeeping costs could be burdensome and expensive on most employers as the majority of employers are small businesses.</p> <p>Recommendation Commenter provides the following text:</p> <p>(e) The complete MPN notification may be distributed through electronic means, including email, if the covered employee has regular electronic access to email at work to receive this notice at the time of injury or when the employee is being transferred into the</p>	Kathleen Burrows Claims Operations Manager – State Compensation Insurance Fund May 6, 2010 Written Comment	Reject. The proposed language is meant only to address prior comments concerning giving flexibility on who can distribute the information while keeping the employer responsible for ensuring the information is provided.	None.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	MPN. If the employee cannot receive this notice electronically at work, then the employer shall ensure this information is provided <u>this information</u> to the employee in writing at the time of injury or when the employee is being transferred into the MPN.			
9767.12(f)(1)	<p>The first sentence under §9767.12(f)(1) requires employers and insurers to provide covered employees with a designated MPN contact person. In the second sentence, while it is appropriate to require employers and insurers to provide a toll-free telephone number if the MPN geographical service area includes more than one area code, commenter opines that it is unnecessary to require that the MPN Contact be accessible through the toll-free number.</p> <p>Typically, when you call a business, your call is answered by a person or is directed into a phone tree to access the company's menu options. This is true for both local and toll-free numbers. While employers and insurers may choose to provide a separate toll-free telephone number to access the MPN Contact, the need to include the text,</p>	Kathleen Burrows Claims Operations Manager – State Compensation Insurance Fund May 6, 2010 Written Comment	Reject. The proposed language makes clear that the MPN contact must be reachable by calling the toll free number.	None.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>“with access to the MPN Contact,” is unnecessary.</p> <p>Recommendation Commenter recommends the following:</p> <p>(f) The complete written MPN employee notification shall include the following information:</p> <p>(1) How to contact the person designated by the employer or insurer to be the MPN Contact for covered employees to answer questions about MPNs and to address MPN problems. The employer or insurer shall provide a toll-free telephone number with access to the MPN Contact if the MPN geographical service area includes more than one area code;</p>			
9767.12(f)(3)	<p>Since MPN provider directories need constant monitoring and updating by the MPN Applicant to be kept accurate and since they can be provided in several formats, commenter believes that the DWC’s requirement that the provider listing are updated at least on a quarterly basis is appropriate. However,</p>	<p>Kathleen Burrows Claims Operations Manager – State Compensation Insurance Fund May 6, 2010 Written Comment</p>	<p>Accept in part, Reject in part.</p> <p>The substance of the comment to give a clearer reference point for the time frame is accepted, but the suggested language is rejected.</p>	<p>The regulations have been revised to give the MPN administrator 60 days from date of notice of a provider’s inability to treat workers’ compensation</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>meeting a 30-day timeframe could be problematic and expensive considering that many MPN Applicants have developed their medical provider networks using a combination of established private health management organizations, preferred provider organizations and individual agreements with physicians to treat their covered employees. Consequently, there is lag time from the time the provider information is received from a vendor and when the system is updated and posted. For example, when a provider becomes deceased, it is not typically the doctor's office's top priority to notify the MPN Applicant. MPN Applicants who currently use vendors already have workflow processes in place to maintain the accuracy of their MPN directories. To require that deceased providers and obsolete address listings are removed within 30 days could require MPN Applicants to develop new costly workflows with their vendors in order to meet this requirement. Furthermore, the DWC does not indicate when the 30 day time period starts.</p>			<p>patients to remove the provider from the MPN listing.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter agrees that covered employees should be provided with a phone number and email address for reporting provider listing inaccuracies, but it is unclear from the text if “each provider listing” refers to the format the listings are provided in (written or electronic), or to the individual provider listings in the regional area listing or MPN directory.</p> <p>Additionally, since most covered employees will receive provider listings in writing with an accompanying cover page, it may be better to provide this information in the cover letter. The requirement to include a phone number and email address to report provider listing inaccuracies in the provider listing should be revised to allow employers and insurers options on how to best provide this information to employees. Allowing employers and insurers options in how they provide this information should reduce programming and implementation costs while still providing employees the required information.</p>			

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Recommendation Commenter recommends deleting the new text and offers the following:</p> <p>(f)(3) How to review, receive or access the MPN provider directory. An employer or insurer shall ensure covered employees have access to, at minimum, a regional area listing of MPN providers in addition to maintaining and making available its complete provider listing in writing or electronically on a CD or on a website if an electronic listing is requested by the employee. If the provider directory is also accessible on a website, the URL address shall be listed with any additional information needed to access the directory online. All provider listings shall be regularly updated, at minimum, on a quarterly basis with the date of the last update provided on the listing given to the employee, to ensure the listing is kept accurate. 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. Each provider listing shall</p>		<p>Reject. The suggested language does not ensure that the employee will have access to the information to report inaccuracies.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>include a phone number and an email address for reporting of provider listing inaccuracies. <u>An employer or insurer shall provide a phone number and an email address for reporting provider listing inaccuracies.</u></p>			
9767.12(g)	<p>Currently, covered employees are notified about the Independent Medical Review (IMR) process at the time of the selection of the physician for a third opinion. This notice is provided in the appropriate language (English or Spanish) based on the injured employee’s needs. Since most employers have Spanish speaking employees and the phrase, “where there are Spanish speaking employees,” will required all physician third opinion notices to be sent in English <u>and</u> Spanish, this requirement appears to be based upon the employer’s workforce demographics and not the needs of the individual injured employees.</p> <p>Recommendation Commenter recommends the following:</p>	Kathleen Burrows Claims Operations Manager – State Compensation Insurance Fund May 6, 2010 Written Comment	Accept in part, Reject in part. The proposed regulatory language will be revised to clarify the language requirement for notices.	The proposed regulations will be revised to require notices in English and also in Spanish to Spanish speaking employees.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>g) At the time of the selection of the physician for a third opinion, the covered employee shall be notified about the Independent Medical Review process. The notification shall be written in English and Spanish where there are Spanish speaking employees, or whichever is more appropriate for the employee.</p>			
9767.16(a) and (e)	<p>As discussed before the phrase “<i>where there are Spanish speaking employees,</i>” applies to providing notices in English and Spanish to all employee of the employer, not just Spanish notices to Spanish speaking employees of the employer. When providing written MPN notices for mass distribution, the notices should be provided in both English and Spanish to avoid litigation regarding notification dispute issues. When notices are sent to specific injured employees they should be clear and concise and provided in the appropriate language(s) based on the injured employee’s needs.</p> <p>Recommendation Commenter recommends the</p>	<p>Kathleen Burrows Claims Operations Manager – State Compensation Insurance Fund May 6, 2010 Written Comment</p>	<p>Accept in part, Reject in part. The proposed regulatory language will be revised to clarify the language requirement for notices.</p>	<p>The proposed regulations will be revised to require notices in English and also in Spanish to Spanish speaking employees.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>following text:</p> <p>(a) The Medical Provider Network Applicant is responsible for ensuring that each covered employee is informed in writing of the MPN policies under which he or she is covered and when the employee is no longer covered by the Applicant's MPN. The MPN Applicant shall ensure each covered employee is given written notice of the date of termination or cessation of use of its MPN. The written notice shall be provided to covered employees prior to the effective date of termination or cessation of use of the Applicant's MPN. The notices required by this section shall be provided in both English and Spanish where there are Spanish speaking employees.</p> <p>(e) Notices required by this section shall be provided in English and Spanish where there are Spanish speaking employees, or whichever is more appropriate for the employee.</p>			
9767.16(a)(3) and (f)	Commenter finds that it is unclear what recordkeeping standards the DWC is expecting employers to meet	Kathleen Burrows Claims Operations Manager – State	Reject. The proposed language is	None.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>to be in compliance if a notification dispute arises. In today’s economic climate, enacting regulations that are burdensome and costly to employers can prove to be more detrimental to employees than the expected benefit they will receive from the regulation.</p> <p>Recommendation Commenter recommends the following text:</p> <p>9767.16(a)(3) The notice of MPN termination or cessation of use may be provided by mail or included on or with an employee’s paystub, paycheck or distributed through electronic means, including email, if the employee has regular electronic access to email at work to receive this notice prior to the end of MPN coverage. If the employee cannot receive this notice electronically at work within the required time frame, then the employer shall ensure this information is provided this information to the employee in writing prior to the end of MPN coverage.</p>	<p>Compensation Insurance Fund May 6, 2010 Written Comment</p>	<p>meant only to address prior comments concerning giving flexibility on who can distribute the information while keeping the employer responsible for ensuring the information is provided.</p>	

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>9767.16(f) The notice of a change of MPN coverage may be provided by mail or included on or with an employee’s paystub, paycheck or distributed through electronic means, including email, if the covered employee has regular electronic access to email at work to receive this notice at least 14 days prior to the beginning of new MPN coverage. If the employee cannot receive this notice electronically at work within the required time frame, then the employer shall ensure this information is provided this information to the employee in writing at least 14 days prior to the beginning of new MPN coverage.</p>			
9767.12(f)(3)	<p>Commenter is concerned with the addition of the following phrase:</p> <p><u>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. Each provider listing shall include a phone number and an email address for reporting of provider listing inaccuracies;</u></p>	<p>Harry J. Monroe, Jr. Coventry Workers’ Comp Services May 6, 2010 Written Comment</p>	<p>Accept.</p> <p>The substance of the comment to give a clearer reference point for the time frame is accepted.</p>	<p>The regulations have been revised to give the MPN administrator 60 days from date of notice of a provider’s inability to treat workers’ compensation patients to remove the provider from the MPN listing.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter understands the purpose of this language but has numerous concerns with it and believes the language should be deleted. Commenter outlines the following problems:</p> <ol style="list-style-type: none"> 1. The 30 day time frame for removing the provider from the list is not linked to any starting point. Is it 30 days from when the provider becomes deceased or stops taking workers' compensation patients, or is it when notice of one of those events is received by the MPN, or does some other circumstance start the clock? Starting time frame with the occurrence of one of these precipitating events (rather than notice of the event) does not seem reasonable, as the MPN may not be the first priority of the physician's staff, to give just one obvious problem with this. 2. The 30 day time frame for updating the provider list to 			

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>reflect these circumstances is in conflict with other provisions requiring listings to be updated quarterly.</p> <p>3. The 30 day time frame remains difficult, even if timed from the date that the network receives notice, as the network has a duty to investigate information that it receives before going through the administrative process of updating the provider listing. Thus, if a patient calls in to say that a physician is no longer seeing workers' compensation patients, the network cannot take action until it verifies the information, which may require multiple attempts to contact the provider. Following the investigation, the network must take steps to update its data to reflect the change.</p>			
9767.12(a); (d); (g) and 9767.16(a) and (e)	Commenter opines that the phrase "where there are Spanish speaking employees" is overly broad and burdensome as many individuals speak Spanish but also speak fluent	Sharon L. Hulbert Assistant General Counsel Zenith Insurance May 6, 2010	Accept in part, Reject in part. The proposed regulatory language will be revised to clarify the language requirement for notices.	The proposed regulations will be revised to require notices in English and also in Spanish to

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>English. Additionally, the phrase as written, implies that notices in English and Spanish must be provided to all employees of a company if even one employee in that company's primary language is Spanish. Commenter opines that companies should continue to have the option of providing Spanish notices only to those employees whose primary language is Spanish and not be required to provide both English and Spanish notices to all employees regardless of their primary language. For example, many employers have multi-cultural staff. If one employee's primary language is Spanish, another's is Vietnamese, another's is English, providing the Spanish notice to the employees whose primary language is Vietnamese and English would serve no purpose and create unnecessary and additional cost to the employer. Commenter therefore proposes the following modification:</p> <p>The initial MPN implementation notice shall be provided in English and Spanish to employees whose primary language is Spanish.</p>	Written Comment		Spanish speaking employees.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>While this still will be somewhat difficult to administer, it does address the concept that the Spanish notice is designed for workers who may have difficulty communicating in English and is not intended for those whose primary language is English but also speak Spanish.</p> <p>The same issue arises in 9767.12 (d) and (g) and 9767.16(a) and (e). So for example, the wording in 9767.12(d) would be modified to:</p> <p>d) Separate from the initial MPN implementation notice, a complete written MPN employee notification with the information specified in subdivision (f) about coverage under the MPN shall be provided to covered employees at the time of injury and when an employee is transferred into the MPN. <i>This MPN notification shall be provided in English and Spanish to employees whose primary language is Spanish. Before MPN coverage is implemented, the complete written MPN employee notification shall also be posted in a</i></p>		Accept.	The posting of the complete employee notification will be required to be posted in English and Spanish.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><i>conspicuous location frequented by employees during the hours of the workday and in close proximity to the workers' compensation posting required under section 9881. This notice shall be posted in Spanish and English if the employer has employees whose primary language is Spanish.</i></p> <p>The notice would be posted in both Spanish and English if even one employee's primary language was Spanish, but it should not be required if all employees are primary English speakers and some of them also happen to be Spanish. Commenter believes this could be an unintended consequence of the current wording and therefore proposes modifying the wording accordingly.</p>			
9767.12(f)(1)	<p>Commenter believes that the second sentence of this subsection could be clarified by reversing the order of the sentence so that it reads:</p> <p><i>If the MPN geographical service area includes more than one area code, the employer or insurer shall provide</i></p>	<p>Sharon L. Hulbert Assistant General Counsel Zenith Insurance May 6, 2010 Written Comment</p>	<p>Reject. The suggestion does not add further clarity.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<i>a toll-free telephone number to use for contacting the MPN;</i>			
9767.12(f)(3)	<p>The current draft added the following provision under 9767.12(f)(3):</p> <p><i>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. Each provider listing shall include a phone number and an email address for reporting of provider listing inaccuracies;</i></p> <p>This provision addresses an issue that every network, both in workers compensation and in health care, struggles with on a daily basis, the maintenance and upkeep of the network provider listing. The upkeep of provider listings is a complicated and multifaceted task. Generally, networks are dependent on the providers themselves to notify the network when there are status changes. That said, networks also utilize a variety of tools and resources to try and validate provider</p>	Sharon L. Hulbert Assistant General Counsel Zenith Insurance May 6, 2010 Written Comment	Accept in part, Reject in part. The substance of the comment to give a clearer reference point for the time frame is accepted, but the suggested language is rejected.	The regulations have been revised to give the MPN administrator 60 days from date of notice of a provider's inability to treat workers' compensation patients to remove the provider from the MPN listing.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>information on an ongoing basis through the claims examiners, medical management information, bill review information. Despite all the industry efforts in this regard, it remains a very difficult task to identify providers who are deceased or have modified their practice.</p> <p>Commenter understands the importance of maintaining an up to date directory of medical providers for injured workers. However, because carriers and the network vendors are dependent on information from the providers and public sources to keep provider data up to date, networks will be in a perpetual state on non-compliance with this 30 day requirement.</p> <p>It is not uncommon for the network and carrier to receive no notice of the death of a provider unless that provider is actively treating an injured worker. Public resources, such as Medical Licensing Board records, frequently continue to list the provider's as active until the license is revoked or suspended for failure to</p>			

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>renew licenses or meet mandatory education requirements. Therefore, even searches of official records will not provide the information needed to identify a deceased provider.</p> <p>With respect to providers who stop accepting workers' compensation patients, again, the carriers and network providers are frequently not notified of this change in provider status despite requirements that the provider and medical group notify the network when such a change occurs.</p> <p>In order to comply with this requirement, carriers and network vendors would literally have to call every provider, every month to make sure the provider's status had not changed. This is a cost prohibitive task as even a small network will have thousands of providers.</p> <p>Therefore, commenter recommends that the provision be modified to state that modifications shall be made within 30 days of the date network first learns of the event. Under this approach, the new language would</p>			

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>read:</p> <p><i>If a listed provider dies 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 the earlier of the date the MPN first had actual knowledge of the event or received notice of the event. Each provider listing shall include a phone number and an email address for reporting of provider listing inaccuracies;</i></p> <p>The "actual knowledge" language would require networks to investigate and make the changes to the provider listing regardless of how the network received the information rather than waiting for an official notice before taking action to update the provider listing. Commenter believes this approach would also balance the need to keep provider lists up to date with the inherent difficulties in obtaining the information that is necessary to do so.</p>			
9767.16(3)	Commenter notes that the word "shall" appears to have been deleted in	Sharon L. Hulbert Assistant General	Accept.	The word "shall" has been included in the

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>error from the following sentence:</p> <p>If the employee cannot receive this notice electronically at work within the required time frame, then the supervisor <u>employer shall provide</u> <i>ensure this information is provided this information</i> to the employee in writing prior to the end of MPN coverage.</p>	<p>Counsel Zenith Insurance May 6, 2010 Written Comment</p>		<p>section.</p>
9767.3(I)	<p>Commenter questions the intent of this subsection and finds the language unclear.</p>	<p>Anonymous May 6, 2010 Written Comment</p>	<p>Reject. Outside the scope of the changes made in this comment period. The proposed language at issue is self explanatory.</p>	<p>None.</p>
MPN Notification Application Form	<p>Commenter specifically questions the following selection:</p> <p><u>Change of employee notification materials, including a change in MPN contact information, or a change in provider listing access or website information: Provide a copy of the revised notification materials.</u></p> <p>Commenter states that MPN contact information and websites may change over time, e.g. additions to a website, but it still may be readily accessible. Requiring an MPN modification</p>	<p>Anonymous May 6, 2010 Written Comment</p>	<p>Reject. A change in website and contact information is essential to an employee’s ability to access the MPN and thus such changes are important enough to require a modification filing.</p> <p>Reject the request to define “MPN Administrator” as that term is not used enough to warrant a definition.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>should be limited to only substantive changes.</p> <p>MPN Administrator needs to be a defined term.</p>			
9767.12(a)	<p>Commenter opines that this subsection should not state “where there are Spanish speaking employees”, but rather “to Spanish speaking employees.” Commenter opines that there may be one Spanish speaking employee at a location but this should not subject the company to providing ALL employees with Spanish notices to all employees because there happens to be a Spanish speaker there.</p>	<p>Anonymous May 6, 2010 Written Comment</p>	<p>Accept in part, Reject in part.</p>	<p>The proposed regulations will be revised to require notices in English and also in Spanish to Spanish speaking employees.</p>
9767.12(a)(5)	<p>Commenter opines that requiring an email address for the MPN contact is impossible in the general MPN employee notice. These notices go out to thousands of employees, most of whom may never need to encounter an MPN. A person’s email address could be subjected to computer viruses, spam, and other inappropriate emails. Whose email should this be? Once a claim is assigned, the claims adjuster will provide their specific contact information which may include email</p>	<p>Anonymous May 6, 2010 Written Comment</p>	<p>Reject. Many MPN contacts have an email address which is often already included in the employee notification distributed to employees. The security of use of email and protection against viruses is the responsibility of the MPN contact, not DWC.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	address.			
9767.12(f)(1)	Commenter states that a specific person will not be assigned until the claim is assigned to someone. Commenter opines that it is reasonable to include a generic customer service number, but not “the person.”	Anonymous May 6, 2010 Written Comment	Accept in part, Reject in part. The MPN contact must be available to address all MPN questions, specific and general. The proposed regulations require that a toll free number that connects to the MPN contact be provided.	None.
General Comment	Commenter states that there is substantial redundancy in the regulations. Commenter requests that the language be streamlined so that the same language that is repeated can either be referenced back to one section, or have a heading to address all of the scenarios when that section is applicable.	Anonymous May 6, 2010 Written Comment	Reject. The proposed regulations were written to enable the sections to stand alone and to reduce references to prior sections, which may change in the future.	None.
Implementation Date of Regulations	Commenter opines that an implementation date that is a minimum of 90 days after the date revisions are adopted will be needed to revise, translate, print and distribute notices, obtain AD approval, reprogram systems, revise workflows, train staff and communicate the changes to the insured employer community. If the Division is still considering making other revisions to the Written Notice to New Employees	Brenda Ramirez Claims and Medical Director California Workers’ Compensation Institute May 6, 2010 Written Comment	Reject. It is unclear when and if the proposed pharmacy benefit regulations will go into effect.	The regulations will become effective 60 days after they are adopted to allow time to revise all required notices and postings.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>and the DWC 7 posting Notice to Employees in conjunction with pharmacy network or other regulations, commenter recommends delaying implementation of those revisions in this rulemaking, and instead implementing all revisions together a minimum of 90 days after other revisions are adopted, otherwise, employers and claims organizations will have to revise and redistribute these notices twice within a short timeframe, creating confusion and unnecessary expense.</p>			
<p>9767.12 and 9767.16 – Email Address</p>	<p>Recommendation Restore the previous language that makes an MPN contact email address optional in the notices instead of mandatory in Sections 9767.12 (a)(5) and (b); and 9767.16 (a)(1)(C), (a)(2), (a) (3), (b)(5) and (c).</p> <p>If the Division decides to retain the modified language that requires the MPN contact email address to be included in the notices, clarify that this is not a Section 9767.8(9) material change that requires an MPN Plan Modification.</p> <p>Discussion</p>	<p>Brenda Ramirez Claims and Medical Director California Workers' Compensation Institute May 6, 2010 Written Comment</p>	<p>Reject. Many MPN contacts have an email address which is often already included in the employee notification distributed to employees. It gives employees another method of communicating with the contact if they are not able to reach the contact by phone during working hours. The proposed email requirement will not result in a modification filing as it is only required for the notices that do not trigger a modification filing.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>The notices currently must include the MPN contact phone number and address, and since the Institute is not aware of complaints from injured employees that demonstrate current means are insufficient, commenter does not believe this modification is necessary. The modified language will not only require MPN applicants that do not currently include an MPN contact email address in every notice to revise their notices at great expense; under Section 9767.8(9), they must also submit an MPN Plan Modification to the Division. Commenter notes that the fiscal impact and additional costs of this change have not been addressed in the Notice of Rulemaking.</p>			
9767.12(f)	<p>Commenter suggests the following revised language:</p> <p>(3) How to review, receive or access the MPN provider directory. An employer or insurer shall ensure covered employees have access to, at minimum, a regional area listing of MPN providers in addition to maintaining and making available its complete provider-listing directory in</p>	<p>Brenda Ramirez Claims and Medical Director California Workers' Compensation Institute May 6, 2010 Written Comment</p>	<p>Reject in part, Accept in part.</p> <p>Reject the use of "directory." For consistency, we will continue to refer to provider</p>	None.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>writing or electronically on a CD or on a website if an electronic listing is requested by the employee. If the provider directory is also accessible on a website, the URL address shall be listed with any additional information needed to access the directory online. The All-provider-listings directory shall be regularly updated, at minimum, on a quarterly basis with the date of the last <u>directory</u> update provided on the listing given to the employee, to ensure the listing is kept accurate. <u>Each provider listing shall include a phone number and an email address for reporting of provider listing inaccuracies.</u> 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 <u>directory list</u> within 30 days of knowledge by the MPN directory administrator. Each provider listing shall include a phone number and an email address for reporting of provider listing inaccuracies;</p> <p>Discussion The MPN provider directory is a</p>		<p>listings which is used throughout the regulations without confusion.</p> <p>Accept the moving of the last sentence in the proposed section for continuity and flow.</p> <p>Accept in substance the time frame reference point from knowledge of the MPN administrator.</p>	<p>The last sentence of the proposed section is moved to be the second to the last sentence.</p> <p>The regulations have been revised to give the MPN administrator 60 days from date of notice of a provider's inability to treat workers' compensation</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>complete provider listing. Referring to the complete provider listing as the directory will avoid confusing the employee.</p> <p>Providing a telephone number and email address for reporting provider listing inaccuracies is a good idea, but for the reasons described in the previous discussion, clarification is needed that adding this phone number and email address will not trigger an MPN Plan Modification under the Section 9767.8(9). The fiscal impact and additional costs of this change have also not been addressed in the Notice of Rulemaking.</p> <p>Reversing the order of the two new sentences provides a more logical flow.</p> <p>Specifying that the 30-day timeframe is measured from when the MPN directory administrator has knowledge that a listed provider is deceased or is no longer treating workers' compensation patients at the listed address will avoid uncertainty and dispute.</p>			patients to remove the provider from the MPN listing.
9767.12(f)	Commenter opines that the requirement to add an email address	Robert Mortensen President	Reject. These changes should not be difficult to make and	None.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>and phone number, and the date of that provider data used to generate the list will have to be programmed into his company's online directory tool at an additional cost.</p> <ul style="list-style-type: none"> • His company's online directory tool is refreshed on a weekly basis so the date will change every week. Commenter also publishes the date that the list was generated which is different than the date the data was pulled to populate the online directory tool. Both of these dates would print on the directories and may be confusing to the injured employee. • The requirement to remove deceased providers is unclear. Commenter states that his company would only have the ability to remove a deceased provider upon receipt of notification of the provider's death. Commenter recommends that the removal should be within 30 days of receipt of notification. 	<p>Anthem Workers' Compensation Services May 6, 2010 Written Comment</p>	<p>would ensure that the MPN is properly used and that the information is updated.</p> <p>The dates can be distinguished by adding a label to each one.</p> <p>Accept.</p>	<p>The regulations have been revised to give the MPN administrator 60 days from date of notice of a provider's inability to treat workers' compensation patients to remove the provider from the MPN listing.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
General comment	<p>Commenter points out that the newsline announcing this 15 day comment period states:</p> <p>“These draft regulations are a continuing part of the division’s 12-point plan to monitor and help control medical costs in California’s Workers’ Compensation system.”</p> <p>Commenter opines that it does not appear that these regulations are consistent with that goal. As he has commented before, after being advised in many informal meetings that the Division was attempting to reduce the number of required MPN notices, he is disappointed to see an additional notice as well as a Posting Notice in these proposed regulations. Commenter believes that if these proposals complete the formal rulemaking process as currently written, they will increase the workload and expense with negligible, if any, benefit to the parties. Commenter does not believe that there should be a separate poster when personal notification is provided to each employee at Date of Hire,</p>	<p>Steven Suchil Assistant Vice President American Insurance Association May 6, 2010 – Received Late – May 12, 2010 Written Comment</p>	<p>Accept in part, Reject in part.</p> <p>Reject the deletion of the posting as it is the only complete notification provided to employees before injury and is not costly or burdensome for the employer to include with the poster.</p> <p>Accept the reduction in the notice distribution.</p>	<p>None.</p> <p>The implementation notice will be required to only be distributed if employers are not changing MPNs within 60 days. The change of MPN and termination/cessation of MPN notices will only be given to injured workers.</p>

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Inception of an MPN, Date of Injury, Change of MPN, Cessation and Termination of MPN, as well as general information as required under Title 8, C.C.R. 9880 on Written Notice to Employees and Title 8, C.C.R. 98812 on the Posting Notice.</p> <p>Alternatively, commenter suggests, if a separate MPN posting is required, perhaps some of the individual notices should be curtailed or shortened.</p>			
9767.12	<p>Commenter states that a number of edits have occurred in this version of the proposed regulations that have converted the optional use of an e-mail address o a mandatory requirement. It would appear that this required change will necessitate re-approval of all MPN plans which do not currently show an e-mail contact address. Commenter notes the following in Title 8 C.C.R. Section 9767.8, Modification of MPN Plan, that itemizes requirements for submitting Plan Modifications:</p> <p>(a)(9) “A material change in any of the employee modification materials, including a change in MPN contact</p>	<p>Steven Suchil Assistant Vice President American Insurance Association May 6, 2010 – Received Late – May 12, 2010 Written Comment</p>	<p>Reject. Many MPN contacts have an email address which is often already included in the employee notification distributed to employees. It gives employees another method of communicating with the contact if they are not able to reach the contact by phone during working hours.</p> <p>Also, the proposed email requirement will not result in a modification filing as it is only required for the notices that do not trigger a modification filing.</p>	None.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>information or a change in provider listing access or website information, required by section 9767.12.”</p> <p>Commenter recommends that the optional status remain. See Section 9767.12 (a)(5), (b), Section 9767.16(a)(1)(C), (a)(2), (b)(5), (c).</p>			
9767.12(f)(3)	<p>Commenter recommends the following revision:</p> <p>“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. Each <u>MPN</u> provider listing directory shall include a phone number and an e-mail address for reporting of provider listing inaccuracies.</p> <p>Commenter states that in the first sentence, the term “listed provider” refers to an individual medical provider. In the second sentence commenter believes the term “provider listing” refers to the entire MPN listing of providers but it could be confusing. Commenter recommends this revision as the</p>	<p>Steven Suchil Assistant Vice President American Insurance Association May 6, 2010 – Received Late – May 12, 2010 Written Comment</p>	<p>Reject the use of “directory.” For consistency, we will continue to refer to provider listings which is used throughout the regulations without confusion.</p>	None.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	present language could be misinterpreted.			
9881.1 – Notice to Employee Poster	<p>Commenter notes that the proposed regulation to the Poster’s footer at the end, indicating “4/10.”</p> <p>Commenter points out that the rule-making will not be completed by that date.</p>	<p>Steven Suchil Assistant Vice President American Insurance Association May 6, 2010 – Received Late – May 12, 2010 Written Comment</p>	Accept. This footer will be updated.	The footer will be updated to the month and year of adoption of this version of the poster.
General Comment – Effective Date of Regulations	<p>Commenter is very concerned about the proposed changes to the Written Notice to New Employees and the Posting Notice in these regulations which will be followed by additional changes at the end of the upcoming rule making for the Pharmacy Benefit Network regulations. Commenter states that amending these documents and providing for their distribution constitutes a significant financial and manpower outlay and strongly recommends that the effective date for these regulations be consistent with the PBN regulations so that all edits and distribution of the revised Written Notice to New Employees and the Posting Notice can be made at one time.</p>	<p>Steven Suchil Assistant Vice President American Insurance Association May 6, 2010 – Received Late – May 12, 2010 Written Comment</p>	Reject. It is unclear when and if the proposed pharmacy benefit regulations will go into effect.	The regulations will become effective 60 days after they are adopted to allow time to revise all required notices and postings.

MEDICAL PROVIDER NETWORKS, DWC FORM 1 AND NOPE	RULEMAKING COMMENTS 2nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Commenter recommends setting the effective date at 90 days after both sets of regulations are final to allow for the necessary edits, printing distribution and posting of the new documents.			