

**State of California**  
**DEPARTMENT OF INDUSTRIAL RELATIONS**  
**Division of Workers' Compensation**

**NOTICE OF MODIFICATION TO TEXT OF  
PROPOSED REGULATIONS**

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

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

**NOTICE IS HEREBY GIVEN**, pursuant to Government Code section 11346.8(c) that the Acting Administrative Director of the Division of Workers' Compensation, proposes to modify the text of the following proposed amendments to Title 8, California Code of Regulations:

Section 9767.3	Application for a Medical Provider Network Plan
Section 9767.8	Modification of Medical Provider Network Plan; Notice of Medical Provider Network Plan Modification §9767.8
Section 9767.12	Employee Notification
Section 9767.16	Notice of Employee Rights Upon Termination or Cessation of Use of Medical Provider Network

The Division also proposes to modify the text of the following proposed amendments to Title 8, California Code of Regulations:

Section 9880	Written Notice to New Employees
Section 9881	Posting of Notice to Employees
Section 9881.1	Notice to Employees Poster

**PRESENTATION OF WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS**

Members of the public are invited to present written comments regarding this proposed modification. **Only comments concerning the proposed modification to the text of the regulation will be considered and responded to in the Final Statement of Reasons.**

Written comments should be addressed to:

Maureen Gray, Regulations Coordinator  
Department of Industrial Relations  
Division of Workers' Compensation  
Post Office Box 420603

Notice of 15-Day Comment Period and Changes to Proposed Text:  
8 CCR §§ 9767.3, 9767.8, 9767.12, 9767.16, 9880, 9881, 9881.1  
March 2, 2010

San Francisco, CA 94142

**The Division's contact person must receive all written comments concerning the proposed modifications to the regulations no later than 5:00 p.m. on March 17, 2010.**

Written comments may be submitted by facsimile transmission (FAX), addressed to the contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail), using the following e-mail address: [dwcrules@dir.ca.gov](mailto:dwcrules@dir.ca.gov)

Due to the inherent risks of non-delivery by facsimile transmission, the Administrative Director suggests, but does not require, that a copy of any comments transmitted by facsimile transmission also be submitted by regular mail.

**Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.**

#### **AVAILABILITY OF TEXT OF REGULATIONS AND RULEMAKING FILE**

Copies of the original text, the modified text with modifications clearly indicated and the entire rulemaking file, are currently available for public review during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays, at the offices of the Division of Workers' Compensation. The Division is located at 1515 Clay Street, 17th Floor, Oakland, California. Please contact the Division's regulations coordinator, Ms. Maureen Gray, at (510) 286-7100 to arrange to inspect the rulemaking file.

#### **FORMAT OF PROPOSED MODIFICATIONS**

##### **Proposed Text Noticed for 45-Day Comment Period:**

Deletions from the original codified regulatory text noticed for the 45-comment period are indicated by single strike-through: ~~deleted language~~.

Additions to the original codified regulatory text noticed for the 45-comment period are indicated by single underlining: deleted language.

##### **Proposed Text Noticed for This 15-Day Comment Period on Modified Text:**

Newly proposed deletions are indicated by double strike-through: ~~~~deleted language~~~~.

Newly proposed additions are indicated by double underlining: added language.

#### **SUMMARY OF PROPOSED CHANGES**

- **Modifications to Section 9767.3 - Application for a Medical Provider Network Plan**

Notice of 15-Day Comment Period and Changes to Proposed Text:  
8 CCR §§ 9767.3, 9767.8, 9767.12, 9767.16, 9880, 9881, 9881.1  
March 2, 2010

The section is modified to further the intent of the rulemaking to streamline the MPN information required.

Subdivision (c)(1) is revised to replace “may” with “shall,” to require that all provider listings be submitted on a computer disk or CD for ease of submission and review. The option to submit the provider listing in a Microsoft Access file is deleted as it is not an option that is used.

Subdivision (c)(2) is revised to delete the phrase, “If the network provider information is submitted on a disk(s) or CD-ROM (s),” and the sentence revised to require the provider file have only three columns, which shall be the physician name, specialty, and location of each physician. The requirement to provide the license number and taxpayer identification number has been deleted and replaced by an affirmation statement that the providers listed are validly licensed to practice in California.

Subdivision (c)(3) is revised to delete the phrase, “information is submitted on a disk(s) or CD ROM(s), the file” and to require the ancillary provider file to have only three columns, which shall be the ancillary provider name, specialty or type of service, and location of each provider. The requirement to provide the license number and taxpayer identification number has been deleted and replaced by an affirmation statement that the providers listed are validly licensed to practice in California if required to have a license.

Subdivision (d)(8)(C) is revised to delete the license number and taxpayer identification number of each physician listed in the MPN in conformance with the earlier changes. The subdivision is also revised to delete the sentence, “Alternatively, if the physicians are also part of a medical group practice, the name and taxpayer identification number of the medical group practice shall be identified in the application.”

Subdivision (d)(8)(D) is revised to delete the license number and taxpayer identification number of the ancillary service providers in conformance with the earlier changes. The subdivision is further revised to delete the requirement that a contractual agreement exists between the MPN and the ancillary services in the MPN or the MPN applicant and the ancillary services in the MPN, and replaced by the requirement that a contractual agreement exists for the ancillary service providers to provide services to be used under the MPN.

Subdivision (e)(14) is revised to add the requirement for disclosure of any economic profiling policy used by any entity contracted with the MPN or MPN Applicant to conduct economic profiling of MPN providers.

- **Modifications to Section 9767.8 – Modification of Medical Provider Network Plan**

In response to comments received, the section has been modified.

Subdivision (a)(5) is revised to clarify that the modification of a change in any economic profiling policy used by any entity contracted with the MPN or MPN Applicant to conduct economic profiling of MPN providers shall also be included in a material modification.

Subdivision (a)(6) is revised to include a change in name of the MPN Applicant as being a material modification.

Subdivision (a)(9) is revised to clarify that a change in MPN contact information or a change in the provider listing access or website information is a material modification.

Subdivision (a)(10) is revised to delete the “Other” category and to add as a material modification a change in use of one of the following deemed entities: Health Care Organization (HCO), Health Care Service Plan, Group Disability Insurer, or Taft-Hartley Health and Welfare Trust Fund.

Subdivision (a)(11) is added to include as a material modification the revision of any plan section(s) required by sections 9767.3(d)(8) or 9767.3(e) due to a change of any MPN administrator(s) listed in the MPN Plan.

Subdivision (a)(12) is added to include as a material modification the replacement of the entire MPN plan application for any reason.

Subdivision (a)(13) is added to include as a material modification the updating of the MPN plan to the permanent regulations as required by section 9767.15.

Subdivision (c) is revised to require the authorized individual to have the authority to act on behalf of the MPN applicant with respect to the MPN and that the verification shall be signed by the authorized individual. This change is to conform this section with the proposed regulatory change to 9767.3(d)(6).

• **Modifications to Section 9767.8 – Notice of Medical Provider Network Plan Modification §9767.8 Form**

In response to comments received, the section has been modified.

The text in Number 8 of the first page of the Notice is revised to add the word, “using” for accuracy.

The second check box on the second page is revised to include a change in name of the MPN Applicant as being a material modification. The reference to “MPN” in the second sentence is deleted and a requirement is added to include all plan sections affected by the name change.

The fourth check box on the second page is revised to delete the “license number” requirement in accordance with proposed changes to section 9767.3.

The seventh check box on the second page is revised to require a copy “of” the policy to correct a typographical error.

The eighth check box on the second page is revised to include that the modification of a change in any economic profiling policy used by any entity contracted with the MPN or MPN Applicant to conduct economic profiling of MPN providers shall also be included in a material modification.

The tenth check box on the second page is revised to clarify that a change in MPN Contact information or a change in the provider listing access or website information is a material modification.

The eleventh check box on the second page is revised to delete the “Other” category and to add as a material modification a change in use of one of the following deemed entities: Health Care Organization (HCO), Health Care Service Plan, Group Disability Insurer, or Taft-Hartley Health and Welfare Trust Fund. A requirement to state the change is added.

The twelfth check box on the second page is added to include as a material modification the revision of any plan section(s) required by sections 9767.3(d)(8) or 9767.3(e) due to a change of any MPN administrator(s) listed in the MPN Plan. A requirement is added to include the revised plan section.

The thirteenth check box on the second page is added to include as a material modification the replacement of the entire MPN plan application and to state the reason for the plan replacement.

The fourteenth check box on the second page is added to include as a material modification the updating of the MPN plan to the permanent regulations as required by section 9767.15 and to include the entire updated plan.

- **Modifications to Section 9767.12 – Employee Notification**

In response to comments received, the section has been modified.

Subdivision (a) is revised to require notices in Spanish and English and to delete the phrase, “or whichever is more appropriate for the employee.”

Subdivision (a)(1) is revised to clarify the notice statement that an employee may properly predesignate prior to injury.

Subdivision (a)(3) is corrected to delete the comma and phrase, “~~with the name of the prior MPN to be included, if available,~~” which was incorrectly included in the proposed 45-day regulatory text and was not in the original regulatory text.

Subdivision (a)(5) has been revised to delete the requirement to include in the notice the MPN Contact's name and to include as optional information the email address of the MPN Contact and the MPN website.

Subdivision (b) is revised to state that an employee may properly predesignate prior to injury. The notice requirement to include the MPN Contact's name is deleted and added is the optional inclusion of the email address of the MPN Contact and the MPN website. The requirement to insert the name of the prior MPN in the notice is deleted.

Subdivision (c) is revised to replace "supervisor" with "employer."

Subdivision (d) is revised to delete "or whichever is more appropriate for the employee" and to replace "next" with "in close proximity."

Subdivision (e) is revised to replace "supervisor" with "employer."

Subdivision (f)(3) is revised to require that the MPN Applicant shall make available its complete provider listing electronically on CD or on a website if an electronic listing is requested by the employee. In addition, the subdivision has been revised to require that the provider listings be 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.

Subdivision (g) is revised to delete "or whichever is more appropriate for the employee."

- **Modifications to Section 9767.16: Notice of Employee Rights Upon Termination or Cessation of Use of Medical Provider Network**

In response to comments received, the section has been modified.

Subdivision (a) is revised to delete "or whichever is more appropriate for the employee."

Subdivision (a)(1) is revised to replace "the" with "its" in reference to the Applicant's MPN.

Subdivision (a)(1)(A) is revised to replace "named" with "Applicant's" MPN.

Subdivision (a)(1)(C) is revised to delete the requirement to include in the notice the MPN Contact's name and to include as optional information the email address of the MPN Contact and the MPN website.

Subdivision (a)(2) is revised to delete the requirement to include in the notice the MPN Contact's name and to include as optional information the email address of the MPN Contact and the MPN website.

Subdivision (a)(3) is revised to replace "supervisor" with "employer."

Subdivision (b) is revised to replace “the” with “that” Applicant’s MPN.

Subdivision (b)(1) is revised to clarify the notice statement that an employee may properly predesignate prior to injury.

Subdivision (b)(3) is corrected to delete the comma and phrase, “~~with the name of the prior MPN to be included, if available,~~” which was incorrectly included in the proposed 45-day regulatory text and was not in the original regulatory text.

Subdivision (b)(5) is revised to delete the requirement to include in the notice the MPN Contact’s name and to add as optional information the email address of the MPN Contact and the MPN website.

Subdivision (c) is revised to state that an employee may properly predesignate prior to injury. The notice requirement to include the MPN Contact’s name is deleted and added is the optional inclusion of the email address of the MPN Contact and the MPN website. The requirement to insert the name of the prior MPN in the notice is deleted.

Subdivision (e) is revised to delete “or whichever is more appropriate for the employee.”

Subdivision (f) is revised to replace “supervisor” with “employer.”

Subdivision (g) is deleted in its entirety.

Subdivision (h) is relettered to subdivision (g).

- **Modifications to Section 9880 - Written Notice to New Employees**

In response to comments received, the section has been modified.

Subdivision (c)(14) is revised to include in the new employee notice a requirement to state than the employer may be using an MPN.

- **Modifications to Section 9881 - Posting of Notice to Employees**

In response to comments received, the section has been modified.

Subdivision (c)(13) is revised to include in the notice to employees a requirement to state than the employer may be using an MPN. The subdivision is further revised to include the email address and MPN website information. The requirement to include the period of MPN coverage has been changed to require the effective date of MPN coverage if the employer is using an MPN.

- **Modifications to Section 9881.1 – Notice to Employees Poster**

In response to comments received, the section has been modified.

The bullet point titled, “Supplemental Job Displacement Benefit” has been revised to add “you” before “modified or alternative work.”

In paragraph numbered 1, under the title, “If You Get Hurt,” the second sentence regarding obtaining emergency care is moved to be the first sentence in the paragraph, before the sentence with directions for first aid.

The date of revision at the bottom left-hand corner of the poster is updated.