

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 9767.12	Employee Notification
Section 9767.16	Notice of Employee Rights Upon Termination or Cessation of Use of Medical Provider Network

**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
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 May 28, 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

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 First 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.

Proposed Text Noticed for Second 15-Day Comment Period on Modified Text:

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

Newly proposed additions are indicated by bolded italics: ***added language***.

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

Newly proposed deletions are indicated by 16-point font and double strike-through: ~~~~deleted language~~~~.

Newly proposed additions are indicated by 16-point font: **added language**.

SUMMARY OF PROPOSED CHANGES

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

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

Subdivision (a) is revised to delete “at least 14 days”, and “or” is replaced by “and” to require distribution of a written implementation notice prior to MPN implementation and at the time of hire. Also, the subdivision is revised to add the sentence, “An implementation notice is not required if the employer or insured employer is changing from one MPN to another MPN within 60 days.” In addition, the subdivision is revised to delete “initial” before references to the “MPN implementation notice”, and to add that notices are to also be given in Spanish to Spanish-speaking employees.

Subdivision (a)(3) is revised to delete, “covered under the prior MPN or may be...”

Subdivision (a)(4) is deleted in its entirety.

Subdivision (a)(5) is deleted in its entirety and replaced by “That more information about the MPN can be found on the workers’ compensation poster or by asking your employer.” The subdivision is also renumbered to (a)(4).

Subdivision (b) is revised to delete the following: the word “initial” before “written MPN implementation notice”, the phrase “you may be required to continue care under your prior MPN or”, and the sentence, “For periods when you are not covered under a MPN, you may choose a physician 30 days after you’ve notified your employer of your injury.” The last sentence is revised to state that more information can be obtained “about the MPN from the workers’ compensation poster or from your employer.”

Subdivision (c) is revised to delete the first sentence, “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 subdivision is also revised to delete “initial” before “MPN implementation notification” and “notification” is changed to “notice.” References to “at least 14 days” are also deleted.

Subdivision (d) is revised to delete “initial” before “MPN implementation notice” and to replace “and” with “or” in the first sentence. The phrase “is transferred into” is also deleted to revise the sentence to require the complete MPN notification be given to an employee at time of injury or when an employee “with an existing injury begins treatment under” the MPN. In addition, the complete MPN employee notification is now required to be provided in English and also in Spanish to Spanish-speaking employees. The posting of the notification has been changed to be posted in English and Spanish.

Subdivision (f) (3) is changed to require that providers no longer treating workers' compensation patients should be taken off the provider list within "60 days of notice to the network administrator" instead of 30 days. The last sentence, beginning, "Each provider listing..." is moved up in the subdivision to be the second-to-the last sentence.

Subdivision (g) is revised to require that the Independent Medical Review notice be provided in English and also in Spanish to Spanish speaking employees.

- **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 add "injured" before all references to "covered employee" in this subdivision and before "employee" in the first sentence. In addition, the subdivision is revised to state that notices are to be given in English and also in Spanish to Spanish speaking employees.

Subdivision (a)(1) is revised to add "injured" before "covered employee."

Subdivision (a)(2) is revised to add "injured" before "covered employees."

Subdivision (a)(3) is revised to add "shall" after "employer" in the last sentence.

Subdivision (b) is revised to add "injured" before "covered employee."

Subdivision (c) is revised to add "injured" before "covered employees."

Subdivision (e) is revised to state that notices are to be given in English and also in Spanish to Spanish speaking employees.

Subdivision (f) is revised to add "shall" after "employer" in the last sentence.

Subdivision (g) is revised to add "injured" before "covered employees" and to delete "14-day" before "notice" in the last sentence.