

## Workers' Compensation Final Regulations Q&A (Medical Provider Networks)

### Medical provider networks, employee information, and workers' compensation claim form (DWC 1) and notice of potential eligibility

#### What is a Medical Provider Network?

A medical provider network (MPN) is a network of providers, including physicians, created to provide medical treatment for work injuries of employees in California. MPNs are created by payors (self-insured employers or workers' compensation insurers) and must be approved by the California Division of Workers' Compensation (DWC). Unless exempted by law or the employer, all medical care for workers injured on the job whose employer has an approved MPN will be handled and provided through the MPN. <sup>8 CCR § 9767.1 et seq.</sup> (Source: DIR)

#### What's new?

The DWC amended regulations on MPN and employee information. Employers and insurers must revise their employee notices and workers' compensation posters to comply with the new regulations.

The amendments to the regulations include, but are not limited to, the following:

- Allows MPN notices to be distributed electronically to all covered workers.
- Eliminates the 14-day MPN implementation and change of MPN notice period.
- Reduces distribution of both the Change of MPN notices and the Termination/Cessation of Use of MPN notices only to covered injured workers.
- Requires an MPN contact e-mail address to be included in notices.
- Requires access to the MPN contact through the toll-free number.
- Updates the Employee Poster and Notice of Potential Eligibility and DWC Claim Form 1.

(Source: DWC)

#### If I don't offer a MPN, what do I have to do?

Employers who do not use a MPN have to update their workers' compensation posting and pamphlet.

#### Is there a deadline for compliance?

Employers and insurers will be required to revise their employee notices and workers' compensation posters to comply with the regulations effective Oct. 8, 2010.

## What MPN notices do I have to give employees?

If you offer an MPN, you must provide the following notices:

- 1) **Workers' Compensation pamphlet (aka "Written Notice to New Employees"):** You must provide to every new employee, either at the time of hire or by the end of the first pay period, the Written Notice to New Employees concerning the rights, benefits and obligations under the worker's compensation law. The notice must include a description about MPNs, which includes that the employer may be using a MPN, what a MPN is, the predesignation exemption from the MPN, when an employee must begin to use a physician from the MPN and how to request information about using a MPN.

You do not have to give specifics about your MPN, which allows the notice to be more widely distributed instead of being individually tailored for each employer.

- 2) **Workers' compensation posting (aka "Notice to Employees Poster"):** You must post and keep posted in a conspicuous location frequented by employees during the hours of the workday a Notice to Employees. This notice must include a description about MPNs along with the MPN contact telephone number, address, and if available, the MPN website/URL. You do not need to include a contact name (so that you don't have to reprint every time the contact person changes). You also have to include the effective date of the MPN coverage for the MPN being used to cover current injuries, if you are using a MPN.
- 3) **Complete MPN Posting (aka "Medical Provider Network - Written Employee Notification"):** The complete written MPN employee notification must be posted in both English and Spanish in a conspicuous location frequented by employees during the hours of the workday and next to the workers' compensation posting.
- 4) **Implementation Notice:** Notify every covered employee in writing about the use of the MPN prior to the implementation of an approved MPN (there is no specific notice period as long as you notify covered employees *before* you implement). You must provide an implementation notice to a new employee at the time of hire.
- 5) **Termination, Cessation, or Change of MPN:**
  - a. You have to make sure each injured covered employee is informed in writing of the MPN policies that cover him or her and you have to notify the injured employee when he or she is no longer covered by your MPN. You must supply written notice of the date of termination or cessation of use of your MPN to injured covered employees prior to the effective date of termination or cessation.
  - b. If you're changing MPN coverage to a different MPN, you have to provide every injured covered employee written notice prior to the effective date of coverage.
- 6) **Independent Medical Review:** At the time of selection of a physician for a third opinion, you must notify the covered employee about the Independent Medical Review process.

- 7) Separate from the MPN implementation notice, you must give a complete written MPN employee notification about coverage under the MPN to covered employees at the time of injury or when an employee with an existing injury begins treatment under the MPN. The insurer or the employer must notify an injured employee of his or her right to be treated by a physician of his or her choice within the MPN after the first visit with the MPN physician and the method by which the list of participating providers may be accessed by the employee.

### **What revisions have occurred to the workers' compensation required posting?**

Some of the revisions include:

- Deletion of information related to vocational rehabilitation services.
- Additional mandatory language regarding temporary disability benefits.
- Added information on MPNs that includes information about an employee's right to predesignate a personal physician.
- Changes to the Division URL to reflect the DWC updated website.
- Minor changes in language to promote clarity (such as reversing sentence order under "Get Medical Care" to emphasize the priority of addressing emergency care first).

### **Are there changes to the workers' compensation pamphlet?**

Yes, such as language relating to predesignating a personal physician or medical group and information on MPNs in the Written Notice to New Employees.

### **Do I have to give the notices or provide the poster in languages other than English?**

Yes, but with the following caveats:

- **Implementation Notice:** Shall be provided in English and also in Spanish, but it only needs to be provided in Spanish to Spanish-speaking individuals.
- **Termination, Cessation, or Change of MPN notice:** Shall be provided in English and also in Spanish, but it only needs to be provided in Spanish to Spanish-speaking individuals.
- **Written Notice to New Employees:** Shall be available in both English and Spanish where there are Spanish-speaking employees
- **Posting of Notice to Employees:** Shall be posted in both English and Spanish where there are Spanish-speaking employees.
- **Independent Medical Review Process:** This notification shall be written in English and also in Spanish to Spanish speaking employees.
- **MPN Employee Notification:** Shall be provided to employees in English and also in Spanish to Spanish speaking employees.

## How do I provide the notices?

- MPN Implementation notice
- MPN Termination or Cessation of Use notice
- Change of MPN coverage

You may send the notices listed above by mail to the employee or include them on or with an employee's paystub or paycheck. You may also distribute the notices through electronic means, including email, if the employee has regular electronic access to email at work to receive the notice prior to the implementation, end or beginning of the MPN.

**Complete written MPN employee notification:** May be distributed through electronic means, including email, if the covered employee has regular electronic access to email at work to receive the notice at the time of injury or when the employee is being transferred into the MPN. If the employee cannot receive this notice electronically at work, then you have to give the notice to the employee in writing at the time of injury or when the employee is being transferred into the MPN. This complete written MPN notice must also be posted next to the general workers' compensation posting.

**Workers' compensation pamphlet:** You must hand the Written Notice to Employees to new employees at the time of hire or by the end of the employee's first pay period.

## Can I combine notices?

The notice of termination or cessation of use of a MPN may be combined with the notice of a change to new MPN coverage if the combined notice meets all the MPN regulatory requirements for both termination or cessation of use of a MPN and for change of a MPN.

## What does the complete MPN posting have to say?

The posting/notification has to include the following information:

- 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;
- A description of MPN services;
- 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. If an employee requests an electronic listing, it shall be provided electronically on a CD or on a website. 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. Each provider listing shall include a phone number and an email address for reporting of

provider listing inaccuracies. If a listed provider becomes deceased or is no longer treating workers' compensation patients at the listed address the provider shall be taken off the provider list within 60 days of notice to the MPN network administrator.

- How to access initial care and subsequent medical care;
- The mileage, time requirements and alternative access standards required under section 9767.5;
- How to access treatment if:
  - The employee is authorized by the employer to temporarily work or travel for work outside the MPN's geographical service area;
  - A former employee whose employer has ongoing workers' compensation obligations permanently resides outside the MPN geographical service area; and
  - an injured employee decides to temporarily reside outside the MPN geographic service area during recovery;
- How to choose a physician within the MPN;
- What to do if a covered employee has trouble getting an appointment with a provider within the MPN;
- How to change a physician within the MPN;
- How to obtain a referral to a specialist within the MPN or outside the MPN, if needed;
- How to use the second and third opinion process;
- How to request and receive an independent medical review;
- A description of the standards for the transfer of care policy and a notification that a copy of the policy shall be provided to an employee upon request; and
- A description of the standards for the continuity of care policy and a notification that a copy of the policy shall be provided to an employee upon request.

**If we are using an approved MPN before Oct. 8, 2010, can we still use our old employee notices?**

All employee notices--including the short implementation notice, the complete employee notification, the termination/cessation of use of MPN notice, the change of MPN notice, and the Independent Medical Review notice--must comply with the new regulations starting October 8, 2010. Only if the old notices fully comply with the revised regulations may you use your old notices. If the old notices do not fully comply with the revised regulations, then you must provide new notices. Be aware that if an MPN plan application approved prior to October 8<sup>th</sup> needs to be modified to comply with the new regulations, a material modification filing may be required under the revised regulations (source: DWC FAQ on MPNs).

**Where can I get more information?**

The DWC has published [Frequently Asked Questions](#).

CalChamber offers the following new forms and notices that comply with the revised regulations:

- [Medical Provider Network - Notice of Plan Modification](#)

- [Medical Provider Network - Sample Language for Notices](#)
- [Medical Provider Network - Written Employee Notification](#) (aka "Complete MPN Notice")