

Date of Hearing: April 26, 2023

ASSEMBLY COMMITTEE ON INSURANCE
Lisa Calderon, Chair
AB 1278 (Rodriguez) – As Amended March 23, 2023

SUBJECT: Workers' compensation: medical provider networks

SUMMARY: Authorizes changes related to the administration of medical provider networks (MPNs). Specifically, **this bill:**

- 1) Allows an injured worker to authorize their primary treating physician to request an electronic copy of the MPN notification that is provided to the injured worker.
- 2) Requires the roster of participating providers posted to the MPN's website to include persons or entities that provide or contract with persons or entities that provide ancillary services, treatment, management services, or coordinate patient care, as provided.
- 3) Requires the Administrative Director (Director) of the Division of Workers' Compensation (DWC) to allow the MPN applicant to submit additional information and materials, as provided, if the Director disapproves a plan for the applicant or determines that it contains deficiencies.
- 4) Provides that an employer or insurer has the right to determine the members of their MPN in regards to physicians, if the physician is duly licensed, and in regard to a person or entity that provides ancillary services regardless of whether the person or entity is doing business as a sole proprietorship, partnership, corporation, or other business entity.

EXISTING LAW:

- 1) Establishes a workers' compensation system that provides benefits to an employee who suffers from an injury or illness that arises out of, and in the course of, employment, irrespective of fault. This system requires all employers to secure payment of benefits by either securing the consent of the Department of Industrial Relations (DIR) to self-insure or by securing insurance against liability from an insurance company duly authorized by the state. (California Constitution Article XIV, Section 4)
- 2) Authorizes an insurer, employer, or entity that provides physician network services to establish or modify a MPN for the provision of medical treatment to injured employees, and requires that a network include an adequate number and type of physicians or other providers, as defined. (Labor Code Section 4616)
- 3) Requires every MPN to post on its internet website a roster of participating providers and information about how to contact the MPN, as provided. (Labor Code Section 4616(a)(4))
- 4) Requires an insurer, employer, or entity that provides physician network services to submit a plan for the MPN to the Director for approval. (Labor Code Section 4616(b)(1))

FISCAL EFFECT: Unknown

COMMENTS:1) *Purpose.* According to the author:

AB 1278 will address disruptions in medical treatment in the workers' compensation system for injured workers. It clarifies the processes between medical providers, networks of providers that treat injured workers (Medical Provider Networks or MPNs), and the Division of Workers' Compensation (DWC). For example, some injured workers do not have the right paperwork to identify their MPN when they see a doctor, leading to confusion and delays. Some injured workers also have difficulty finding and contacting providers, especially for telehealth services. MPNs have also encountered technical issues in becoming licensed and signing up physicians and surgeons to join their network. This bill would fix these disruptions in the MPN process that have occurred over the past 20 years, making it easier for injured workers to get the care they need and deserve.

2) *Background on MPNs.* For nearly a century, the California Workers' Compensation system has provided injured workers with employer-funded medical care. At its core is a careful bargain of employers paying the cost of medical care, while the employee agrees not to take legal action against the employer.

Since 2005, injured workers have accessed care through a MPN set up by an insurer or self-insured employer; this network is simply a list of doctors that have experience treating common workplace injuries and supplementary specialists that can cover the needs of specific industries, provide second opinions, or handle independent medical review (IMR) requests. MPNs can be large or small, depending on the needs of the insurer or employer, but all are approved by the DWC. An employer may require an injured employee to be treated for a workplace injury within its MPN, provided that the MPN is approved by the DWC and various notice requirements have been met.

MPNs function in a manner similar to health maintenance organizations in the group health setting. By bringing together large groups of healthcare providers under a series of contracted rates, the goal of MPNs is to provide ample and appropriate medical care in a cost sensitive way. Moreover, by bringing such a large group of providers together, injured workers are able to have significant choice in their providers.

3) *Need for the Bill.* According to the American Association of Payers, Administrators and Networks (AAPAN), the sponsor of this bill, this bill is needed to bring statutory guidance regarding how MPNs operate and the processes between MPNs, providers, and DWC. AAPAN argues that parts of current processes are unclear, which may delay or interrupt care to injured workers.5) *DWC Newsline.* On July 20, 2022, DWC published a Newsline to clarify existing law and provider directory requirements for MPNs. (<https://www.dir.ca.gov/DIRNews/2022/2022-61.html>) According to the DWC Newsline, "Under current law, if an MPN submits a provider listing that contains the names of non-professional organizations, management services organizations, scheduling and coordinating companies, cost containment companies, or other non-provider entities, the DWC will disapprove the MPN submission." Therefore, in part, this bill will change this directory requirement to broaden the scope of the types of entities that can be included in an MPN listing to explicitly include a person or entity that

provides ancillary services regardless of whether the person or entity is doing business as a sole proprietorship, partnership, corporation, or other business entity.

4) *Prior legislation.*

- a) AB 1465 (Reyes) of 2021, would have required the Commission on Healthy and Safety and Workers' Compensation to submit a study to the Legislature related to delays and access to care issues in MPNs. Died in Senate Labor, Public Employment and Retirement Committee.
- b) SB 537 (Hill) Chapter 647, Statutes of 2019, required MPNs to list all medical providers on a public roster, prohibited MPNs from altering medical treatment plans and medical billing codes, and required disclosure to payors of any contract between a medical provider and a contracting agent, employer or insurance carrier that is 20% or more below of the Official Medical Fee Schedule.
- c) SB 899 (Poochigian) Chapter 34, Statutes of 2004, authorized the development of MPNs, established a system of independent medical review, provided immediate medical treatment to workers filing claim forms for occupational injury, and provided funding for return-to-work programs.

REGISTERED SUPPORT / OPPOSITION:

Support

Allied Managed Care and Acclamation Insurance Management Services
 American Association of Payers Administrators and Networks
 CA Black Chamber of Commerce
 California Asian Pacific Chamber of Commerce
 California Hispanic Chambers of Commerce
 California Metals Coalition
 Cameo - California Association for Micro Enterprise Opportunity
 Coalition of Small and Disabled Veteran Businesses
 Corvel Corporation
 Coventry
 Flasher Barricade Association
 Medex Health Care, INC.
 National Association of Women Business Owners - California
 National Federation of Independent Business- CA
 Risk & Insurance Management Society (RIMS)
 Sierra Business Council
 Small Business Majority

Opposition

None on file

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