



**New Case Briefs**  
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*Sharon Babbitt v. Ow Jing dba National Market and Golden Eagle Ins. Co.*  
**(WCAB No. STK 0174793, 72 Cal. Comp. Cases)**  
**En Banc Decision, 1/24/2007**

**MPN'S APPLY TO ALL DATES OF INJURY**

Applicant sustained an injury to her back and neck on 7/1/99, during the course of her employment as a store clerk. Stipulations with Request for Award were approved on 4/8/03, providing for permanent disability at 52%. A future medical care Award issued by stipulation on the same date.

Thereafter, in August 2003, applicant commenced receiving medical care pursuant to the medical care Award from Dr. Frank Fine. On 4/19/04, SB 899 was enacted containing the new Medical Provider Network (MPN) provisions which became effective on 1/1/05. Dr. Fine was not a member of defendant's MPN.

After 1/1/05, defendant provided applicant with the required MPN notices and a demand that she select a treating physician within its MPN. Applicant declined and filed a DOR, contending that the MPN provisions did not or could not be applied to her pre-2005 injury and Award.

The WCAB, en banc, affirmed the decision of the WCJ and held that the MPN provisions enacted by SB 899, as well as the regulations promulgated thereunder (Cal. Code Regs., tit.8, Secs. 9767.1 et seq.) applied regardless of the date of injury and regardless of the date of the medical Award, if any, provided that both the MPN notice provisions (see *Knight v. United Parcel Service (en banc 2006)* 71 Cal. Comp. Cases 1423) and the "continuity of care" provisions of LC §4616.2(d)(3), had been complied with. While applicant had a conceded "serious chronic condition" requiring continuation of care with Dr. Fine for up to one year [LC §4616.2(d)(3)(B)], it was stipulated that she had received such care. The WCAB also held, with Commissioner Brass dissenting in part, that defendant need not demonstrate a change in condition or defective or incomplete medical treatment before transferring care to its MPN.