

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 BY REQUEST OF THE BUSINESS AND LABOR INTERIM COMMITTEE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE CRITERIA REQUIRED BEFORE AN INSURER
7 MAY CONVERT A CLAIMANT'S TEMPORARY TOTAL DISABILITY BENEFITS OR TEMPORARY PARTIAL
8 DISABILITY BENEFITS TO PERMANENT PARTIAL DISABILITY BENEFITS; PROVIDING FOR PAYMENT OF
9 A MAXIMUM OF 10 WEEKS OF REHABILITATION BENEFITS WHILE A DISABLED WORKER OR WORKER
10 WITH AN IMPAIRMENT RATING OF 15 PERCENT OR GREATER IS WAITING TO BEGIN AN AGREED-UPON
11 REHABILITATION PLAN; AMENDING SECTIONS 39-71-116, 39-71-609, AND 39-71-1006, MCA; AND
12 PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **Section 1.** Section 39-71-116, MCA, is amended to read:

17 **"39-71-116. (Temporary) Definitions.** Unless the context otherwise requires, words and phrases
18 used in this chapter have the following meanings:

19 (1) "Actual wage loss" means that the wages that a worker earns or is qualified to earn after the
20 worker reaches maximum healing are less than the actual wages the worker received at the time of the
21 injury.

22 (2) "Administer and pay" includes all actions by the state fund under the Workers' Compensation
23 Act and the Occupational Disease Act of Montana necessary to:

- 24 (a) investigation, review, and settlement of claims;
- 25 (b) payment of benefits;
- 26 (c) setting of reserves;
- 27 (d) furnishing of services and facilities; and
- 28 (e) use of actuarial, audit, accounting, vocational rehabilitation, and legal services.

29 (3) "Aid or sustenance" means a public or private subsidy made to provide a means of support,
30 maintenance, or subsistence for the recipient.

1 (4) "Average weekly wage" means the mean weekly earnings of all employees under covered
2 employment, as defined and established annually by the department. It is established at the nearest whole
3 dollar number and must be adopted by the department before July 1 of each year.

4 (5) "Beneficiary" means:

5 (a) a surviving spouse living with or legally entitled to be supported by the deceased at the time
6 of injury;

7 (b) an unmarried child under 18 years of age;

8 (c) an unmarried child under 22 years of age who is a full-time student in an accredited school or
9 is enrolled in an accredited apprenticeship program;

10 (d) an invalid child over 18 years of age who is dependent, as defined in 26 U.S.C. 152, upon the
11 decedent for support at the time of injury;

12 (e) a parent who is dependent, as defined in 26 U.S.C. 152, upon the decedent for support at the
13 time of the injury if a beneficiary, as defined in subsections (5)(a) through (5)(d), does not exist; and

14 (f) a brother or sister under 18 years of age if dependent, as defined in 26 U.S.C. 152, upon the
15 decedent for support at the time of the injury but only until the age of 18 years and only when a
16 beneficiary, as defined in subsections (5)(a) through (5)(e), does not exist.

17 (6) "Business partner" means the community, governmental entity, or business organization that
18 provides the premises for work-based learning activities for students.

19 (7) "Casual employment" means employment not in the usual course of the trade, business,
20 profession, or occupation of the employer.

21 (8) "Child" includes a posthumous child, a dependent stepchild, and a child legally adopted prior
22 to the injury.

23 (9) "Construction industry" means the major group of general contractors and operative builders,
24 heavy construction (other than building construction) contractors, and special trade contractors, listed in
25 major groups 15 through 17 in the 1987 Standard Industrial Classification Manual. The term does not
26 include office workers, design professionals, salespersons, estimators, or any other related employment
27 that is not directly involved on a regular basis in the provision of physical labor at a construction or
28 renovation site.

29 (10) "Days" means calendar days, unless otherwise specified.

30 (11) "Department" means the department of labor and industry.

1 (12) "Fiscal year" means the period of time between July 1 and the succeeding June 30.

2 (13) "Household or domestic employment" means employment of persons other than members of
3 the household for the purpose of tending to the aid and comfort of the employer or members of the
4 employer's family, including but not limited to housecleaning and yard work, but does not include
5 employment beyond the scope of normal household or domestic duties, such as home health care or
6 domiciliary care.

7 (14) "Insurer" means an employer bound by compensation plan No. 1, an insurance company
8 transacting business under compensation plan No. 2, or the state fund under compensation plan No. 3.

9 (15) "Invalid" means one who is physically or mentally incapacitated.

10 (16) "Limited liability company" is as defined in 35-8-102.

11 (17) "Maintenance care" means treatment designed to provide the optimum state of health while
12 minimizing recurrence of the clinical status.

13 (18) "Medical stability", "maximum healing", or "maximum medical healing" means a point in the
14 healing process when further material improvement would not be reasonably expected from primary
15 medical treatment.

16 (19) "Objective medical findings" means medical evidence, including range of motion, atrophy,
17 muscle strength, muscle spasm, or other diagnostic evidence, substantiated by clinical findings.

18 (20) "Order" means any decision, rule, direction, requirement, or standard of the department or
19 any other determination arrived at or decision made by the department.

20 (21) "Palliative care" means treatment designed to reduce or ease symptoms without curing the
21 underlying cause of the symptoms.

22 (22) "Payroll", "annual payroll", or "annual payroll for the preceding year" means the average
23 annual payroll of the employer for the preceding calendar year or, if the employer has not operated a
24 sufficient or any length of time during the calendar year, 12 times the average monthly payroll for the
25 current year. However, an estimate may be made by the department for any employer starting in business
26 if average payrolls are not available. This estimate must be adjusted by additional payment by the employer
27 or refund by the department, as the case may actually be, on December 31 of the current year. An
28 employer's payroll must be computed by calculating all wages, as defined in 39-71-123, that are paid by
29 an employer.

30 (23) "Permanent partial disability" means a physical condition in which a worker, after reaching

1 maximum medical healing:

2 (a) has a permanent compensable physical impairment or a permanent compensable mental
3 impairment established by objective medical findings;

4 (b) is able to return to work in some capacity but the permanent impairment impairs the worker's
5 ability to work; and

6 (c) has an actual wage loss as a result of the injury.

7 (24) "Permanent total disability" means a physical condition resulting from injury as defined in this
8 chapter, after a worker reaches maximum medical healing, in which a worker does not have a reasonable
9 prospect of physically performing regular employment. Regular employment means work on a recurring
10 basis performed for remuneration in a trade, business, profession, or other occupation in this state. Lack
11 of immediate job openings is not a factor to be considered in determining if a worker is permanently totally
12 disabled.

13 (25) The "plant of the employer" includes the place of business of a third person while the
14 employer has access to or control over the place of business for the purpose of carrying on the employer's
15 usual trade, business, or occupation.

16 (26) "Primary medical services" means treatment prescribed by a treating physician, for conditions
17 resulting from the injury, necessary for achieving medical stability.

18 (27) "Public corporation" means the state or any county, municipal corporation, school district,
19 city, city under a commission form of government or special charter, town, or village.

20 (28) "Reasonably safe place to work" means that the place of employment has been made as free
21 from danger to the life or safety of the employee as the nature of the employment will reasonably permit.

22 (29) "Reasonably safe tools and appliances" are tools and appliances that are adapted to and that
23 are reasonably safe for use for the particular purpose for which they are furnished.

24 (30) (a) "Secondary medical services" means those medical services or appliances that are
25 considered not medically necessary for medical stability. The services and appliances include but are not
26 limited to spas or hot tubs, work hardening, physical restoration programs and other restoration programs
27 designed to address disability and not impairment, or equipment offered by individuals, clinics, groups,
28 hospitals, or rehabilitation facilities.

29 (b) (i) As used in this subsection (30), "disability" means a condition in which a worker's ability
30 to engage in gainful employment is diminished as a result of physical restrictions resulting from an injury.

1 The restrictions may be combined with factors, such as the worker's age, education, work history, and
2 other factors that affect the worker's ability to engage in gainful employment.

3 (ii) Disability does not mean a purely medical condition.

4 (31) "Sole proprietor" means the person who has the exclusive legal right or title to or ownership
5 of a business enterprise.

6 (32) "Temporary partial disability" means a physical condition resulting from an injury, as defined
7 in 39-71-119, in which a worker, prior to maximum healing:

8 (a) is temporarily unable to return to the position held at the time of injury because of a medically
9 determined physical restriction;

10 (b) returns to work in a modified or alternative employment; and

11 (c) suffers a partial wage loss.

12 (33) "Temporary service contractor" means a person, firm, association, partnership, limited liability
13 company, or corporation conducting business that hires its own employees and assigns them to clients
14 to fill a work assignment with a finite ending date to support or supplement the client's workforce in
15 situations resulting from employee absences, skill shortages, seasonal workloads, and special assignments
16 and projects.

17 (34) "Temporary total disability" means a physical condition resulting from an injury, as defined
18 in this chapter, that results in total loss of wages and exists until the injured worker reaches maximum
19 medical healing.

20 (35) "Temporary worker" means a worker whose services are furnished to another on a part-time
21 or temporary basis to fill a work assignment with a finite ending date to support or supplement a workforce
22 in situations resulting from employee absences, skill shortages, seasonal workloads, and special
23 assignments and projects.

24 (36) "Treating physician" means a person who is primarily responsible for the treatment of a
25 worker's compensable injury and is:

26 (a) a physician licensed by the state of Montana under Title 37, chapter 3, and has admitting
27 privileges to practice in one or more hospitals, if any, in the area where the physician is located;

28 (b) a chiropractor licensed by the state of Montana under Title 37, chapter 12;

29 (c) a physician assistant-certified licensed by the state of Montana under Title 37, chapter 20, if
30 there is not a physician, as defined in subsection (36)(a), in the area where the physician assistant-certified

1 is located;

2 (d) an osteopath licensed by the state of Montana under Title 37, chapter 5;

3 (e) a dentist licensed by the state of Montana under Title 37, chapter 4;

4 (f) for a claimant residing out of state or upon approval of the insurer, a treating physician defined
5 in subsections (36)(a) through (36)(e) who is licensed or certified in another state; or

6 (g) an advanced practice registered nurse licensed by the state of Montana under Title 37, chapter
7 8, recognized by the board of nursing as a nurse practitioner or a clinical nurse specialist, and practicing
8 in consultation with a physician licensed under Title 37, chapter 3, if there is not a treating physician, as
9 defined in subsection (35)(a), in the area in which the advanced practice registered nurse is located.

10 (37) "Work-based learning activities" means job training and work experience conducted on the
11 premises of a business partner as a component of school-based learning activities authorized by an
12 elementary, secondary, or postsecondary educational institution.

13 (38) "Year", unless otherwise specified, means calendar year.

14 **39-71-116. (Effective July 1, 2001) Definitions.** Unless the context otherwise requires, in this
15 chapter, the following definitions apply:

16 (1) "Actual wage loss" means that the wages that a worker earns or is qualified to earn after the
17 worker reaches maximum healing are less than the actual wages the worker received at the time of the
18 injury.

19 (2) "Administer and pay" includes all actions by the state fund under the Workers' Compensation
20 Act and the Occupational Disease Act of Montana necessary to:

21 (a) investigation, review, and settlement of claims;

22 (b) payment of benefits;

23 (c) setting of reserves;

24 (d) furnishing of services and facilities; and

25 (e) use of actuarial, audit, accounting, vocational rehabilitation, and legal services.

26 (3) "Aid or sustenance" means a public or private subsidy made to provide a means of support,
27 maintenance, or subsistence for the recipient.

28 (4) "Average weekly wage" means the mean weekly earnings of all employees under covered
29 employment, as defined and established annually by the department. It is established at the nearest whole
30 dollar number and must be adopted by the department before July 1 of each year.

1 (5) "Beneficiary" means:

2 (a) a surviving spouse living with or legally entitled to be supported by the deceased at the time
3 of injury;

4 (b) an unmarried child under 18 years of age;

5 (c) an unmarried child under 22 years of age who is a full-time student in an accredited school or
6 is enrolled in an accredited apprenticeship program;

7 (d) an invalid child over 18 years of age who is dependent, as defined in 26 U.S.C. 152, upon the
8 decedent for support at the time of injury;

9 (e) a parent who is dependent, as defined in 26 U.S.C. 152, upon the decedent for support at the
10 time of the injury if a beneficiary, as defined in subsections (5)(a) through (5)(d), does not exist; and

11 (f) a brother or sister under 18 years of age if dependent, as defined in 26 U.S.C. 152, upon the
12 decedent for support at the time of the injury but only until the age of 18 years and only when a
13 beneficiary, as defined in subsections (5)(a) through (5)(e), does not exist.

14 (6) "Business partner" means the community, governmental entity, or business organization that
15 provides the premises for work-based learning activities for students.

16 (7) "Casual employment" means employment not in the usual course of the trade, business,
17 profession, or occupation of the employer.

18 (8) "Child" includes a posthumous child, a dependent stepchild, and a child legally adopted prior
19 to the injury.

20 (9) "Construction industry" means the major group of general contractors and operative builders,
21 heavy construction (other than building construction) contractors, and special trade contractors, listed in
22 major group 23 in the North American Industry Classification System Manual. The term does not include
23 office workers, design professionals, salespersons, estimators, or any other related employment that is
24 not directly involved on a regular basis in the provision of physical labor at a construction or renovation
25 site.

26 (10) "Days" means calendar days, unless otherwise specified.

27 (11) "Department" means the department of labor and industry.

28 (12) "Fiscal year" means the period of time between July 1 and the succeeding June 30.

29 (13) "Household or domestic employment" means employment of persons other than members of
30 the household for the purpose of tending to the aid and comfort of the employer or members of the

1 employer's family, including but not limited to housecleaning and yard work, but does not include
2 employment beyond the scope of normal household or domestic duties, such as home health care or
3 domiciliary care.

4 (14) "Insurer" means an employer bound by compensation plan No. 1, an insurance company
5 transacting business under compensation plan No. 2, or the state fund under compensation plan No. 3.

6 (15) "Invalid" means one who is physically or mentally incapacitated.

7 (16) "Limited liability company" is as defined in 35-8-102.

8 (17) "Maintenance care" means treatment designed to provide the optimum state of health while
9 minimizing recurrence of the clinical status.

10 (18) "Medical stability", "maximum healing", or "maximum medical healing" means a point in the
11 healing process when further material improvement would not be reasonably expected from primary
12 medical treatment.

13 (19) "Objective medical findings" means medical evidence, including range of motion, atrophy,
14 muscle strength, muscle spasm, or other diagnostic evidence, substantiated by clinical findings.

15 (20) "Order" means any decision, rule, direction, requirement, or standard of the department or
16 any other determination arrived at or decision made by the department.

17 (21) "Palliative care" means treatment designed to reduce or ease symptoms without curing the
18 underlying cause of the symptoms.

19 (22) "Payroll", "annual payroll", or "annual payroll for the preceding year" means the average
20 annual payroll of the employer for the preceding calendar year or, if the employer has not operated a
21 sufficient or any length of time during the calendar year, 12 times the average monthly payroll for the
22 current year. However, an estimate may be made by the department for any employer starting in business
23 if average payrolls are not available. This estimate must be adjusted by additional payment by the employer
24 or refund by the department, as the case may actually be, on December 31 of the current year. An
25 employer's payroll must be computed by calculating all wages, as defined in 39-71-123, that are paid by
26 an employer.

27 (23) "Permanent partial disability" means a physical condition in which a worker, after reaching
28 maximum medical healing:

29 (a) has a permanent compensable physical impairment or a permanent compensable mental
30 impairment established by objective medical findings;

1 (b) is able to return to work in some capacity but the permanent impairment impairs the worker's
2 ability to work; and

3 (c) has an actual wage loss as a result of the injury.

4 (24) "Permanent total disability" means a physical condition resulting from injury as defined in this
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6 prospect of physically performing regular employment. Regular employment means work on a recurring
7 basis performed for remuneration in a trade, business, profession, or other occupation in this state. Lack
8 of immediate job openings is not a factor to be considered in determining if a worker is permanently totally
9 disabled.

10 (25) The "plant of the employer" includes the place of business of a third person while the
11 employer has access to or control over the place of business for the purpose of carrying on the employer's
12 usual trade, business, or occupation.

13 (26) "Primary medical services" means treatment prescribed by a treating physician, for conditions
14 resulting from the injury, necessary for achieving medical stability.

15 (27) "Public corporation" means the state or a county, municipal corporation, school district, city,
16 city under a commission form of government or special charter, town, or village.

17 (28) "Reasonably safe place to work" means that the place of employment has been made as free
18 from danger to the life or safety of the employee as the nature of the employment will reasonably permit.

19 (29) "Reasonably safe tools and appliances" are tools and appliances that are adapted to and that
20 are reasonably safe for use for the particular purpose for which they are furnished.

21 (30) (a) "Secondary medical services" means those medical services or appliances that are
22 considered not medically necessary for medical stability. The services and appliances include but are not
23 limited to spas or hot tubs, work hardening, physical restoration programs and other restoration programs
24 designed to address disability and not impairment, or equipment offered by individuals, clinics, groups,
25 hospitals, or rehabilitation facilities.

26 (b) (i) As used in this subsection (30), "disability" means a condition in which a worker's ability
27 to engage in gainful employment is diminished as a result of physical restrictions resulting from an injury.
28 The restrictions may be combined with factors, such as the worker's age, education, work history, and
29 other factors that affect the worker's ability to engage in gainful employment.

30 (ii) Disability does not mean a purely medical condition.

1 (31) "Sole proprietor" means the person who has the exclusive legal right or title to or ownership
2 of a business enterprise.

3 (32) "Temporary partial disability" means a physical condition resulting from an injury, as defined
4 in 39-71-119, in which a worker, prior to maximum healing:

5 (a) is temporarily unable to return to the position held at the time of injury because of a medically
6 determined physical restriction;

7 (b) returns to work in a modified or alternative employment; and

8 (c) suffers a partial wage loss.

9 (33) "Temporary service contractor" means a person, firm, association, partnership, limited liability
10 company, or corporation conducting business that hires its own employees and assigns them to clients
11 to fill a work assignment with a finite ending date to support or supplement the client's workforce in
12 situations resulting from employee absences, skill shortages, seasonal workloads, and special assignments
13 and projects.

14 (34) "Temporary total disability" means a physical condition resulting from an injury, as defined
15 in this chapter, that results in total loss of wages and exists until the injured worker reaches maximum
16 medical healing.

17 (35) "Temporary worker" means a worker whose services are furnished to another on a part-time
18 or temporary basis to fill a work assignment with a finite ending date to support or supplement a workforce
19 in situations resulting from employee absences, skill shortages, seasonal workloads, and special
20 assignments and projects.

21 (36) "Treating physician" means a person who is primarily responsible for the treatment of a
22 worker's compensable injury and is:

23 (a) a physician licensed by the state of Montana under Title 37, chapter 3, and has admitting
24 privileges to practice in one or more hospitals, if any, in the area where the physician is located;

25 (b) a chiropractor licensed by the state of Montana under Title 37, chapter 12;

26 (c) a physician assistant-certified licensed by the state of Montana under Title 37, chapter 20, if
27 there is not a treating physician, as provided for in subsection (36)(a), in the area where the physician
28 assistant-certified is located;

29 (d) an osteopath licensed by the state of Montana under Title 37, chapter 5;

30 (e) a dentist licensed by the state of Montana under Title 37, chapter 4;

1 (f) for a claimant residing out of state or upon approval of the insurer, a treating physician defined
2 in subsections (36)(a) through (36)(e) who is licensed or certified in another state; or

3 (g) an advanced practice registered nurse licensed by the state of Montana under Title 37, chapter
4 8, recognized by the board of nursing as a nurse practitioner or a clinical nurse specialist, and practicing
5 in consultation with a physician licensed under Title 37, chapter 3, if there is not a treating physician, as
6 provided for in subsection (36)(a), in the area in which the advanced practice registered nurse is located.

7 (37) "Work-based learning activities" means job training and work experience conducted on the
8 premises of a business partner as a component of school-based learning activities authorized by an
9 elementary, secondary, or postsecondary educational institution.

10 (38) "Year", unless otherwise specified, means calendar year."
11

12 **Section 2.** Section 39-71-609, MCA, is amended to read:

13 **"39-71-609. Denial of claim after payments made or termination of all benefits or reduction to**
14 **partial benefits by insurer -- fourteen days' notice required -- exception.** (1) Except as provided in
15 subsection (2), if an insurer determines to deny a claim on which payments have been made under
16 39-71-608 during a time of further investigation or, after a claim has been accepted, terminates all
17 biweekly compensation benefits, it may do so only after 14 days' written notice to the claimant, the
18 claimant's authorized representative, if any, and the department. For injuries occurring prior to July 1,
19 1987, an insurer ~~must~~ shall give 14 days' written notice to the claimant before reducing benefits from total
20 to partial. However, if an insurer has knowledge that a claimant has returned to work, compensation
21 benefits may be terminated as of the time the claimant returned to work.

22 (2) ~~Temporary total disability benefits may be terminated on the date that the worker has been~~
23 ~~released to return to work in some capacity~~ Unless the claimant is found, at maximum healing, to be
24 without a permanent compensable physical impairment or a permanent compensable mental impairment
25 from the injury, the insurer, prior to converting temporary total disability benefits or temporary partial
26 disability benefits to permanent partial disability benefits:

27 (a) must have a physician's determination that the claimant has reached medical stability;

28 (b) must have a physician's determination of the claimant's physical restrictions resulting from the
29 industrial injury;

30 (c) must have a physician's determination, based on the physician's knowledge of the claimant's

1 job analysis prepared by a rehabilitation provider, that the claimant can return to work, with or without
 2 restrictions, on the job on which the claimant was injured or on another job for which the claimant is suited
 3 by age, education, work experience, and physical condition;

4 (d) shall give notice to the claimant of the insurer's receipt of the report of the physician's
 5 determinations required pursuant to subsections (2)(a) through (2)(c). The notice must be attached to a
 6 copy of the report.

7 (e) must have an evaluation by a rehabilitation provider establishing whether the claimant has an
 8 actual wage loss."

9

10 **Section 3.** Section 39-71-1006, MCA, is amended to read:

11 **"39-71-1006. Rehabilitation benefits.** (1) A worker is eligible for rehabilitation benefits if:

12 (a) (i) the worker meets the definition of a disabled worker as provided in 39-71-1011; or

13 (ii) the worker has, as a result of the work-related injury, a whole person impairment rating of 15%
 14 or greater, as established by objective medical findings, and has no actual wage loss;

15 (b) a rehabilitation provider, as designated by the insurer, certifies that the worker has reasonable
 16 vocational goals and reasonable reemployment opportunity. If eligible because of an impairment rating of
 17 15% or more, with rehabilitation, the worker will have a reasonable increase in the worker's wage
 18 compared to the wage that the worker received at the time of injury. If eligible because of a wage loss,
 19 the worker will have a reasonable reduction in the worker's actual wage loss with rehabilitation.

20 (c) a rehabilitation plan is agreed upon by the worker and the insurer and a written copy of the
 21 plan is provided to the worker. The plan must take into consideration the worker's age, education, training,
 22 work history, residual physical capacities, and vocational interests. The plan must specify a beginning date
 23 and a completion date. The plan must specify the cost of tuition, fees, books, and other reasonable and
 24 necessary retraining expenses required to complete the plan.

25 (2) A ~~disabled~~ worker who meets the requirements of subsection (1)(a) is entitled to receive
 26 biweekly compensation benefits at the worker's temporary total disability rate. The benefits must be paid
 27 for the period specified in the rehabilitation plan, not to exceed 104 weeks. The rehabilitation plan must
 28 be completed within 26 weeks of the completion date specified in the plan. Rehabilitation benefits must
 29 be paid biweekly while the worker is satisfactorily progressing in the agreed-upon rehabilitation plan.
 30 Benefits under this section are not subject to the lump-sum provisions of 39-71-741.

1 (3) In addition to rehabilitation benefits payable under subsection (2), a worker who meets the
2 requirements of subsection (1)(a) is entitled to receive rehabilitation benefits during a reasonable period,
3 not to exceed 10 weeks, while the worker is waiting to begin the agreed-upon rehabilitation plan.

4 ~~(3)~~(4) In addition to rehabilitation benefits payable under ~~subsection (2)~~ subsections (2) and (3),
5 a disabled worker who was injured on or after July 1, 1997, is entitled to receive payment for tuition, fees,
6 books, and other reasonable and necessary retraining expenses, excluding travel and living expenses paid
7 pursuant to the provisions of 39-71-1025, as set forth in department rules and as specified in the
8 rehabilitation plan. Expenses must be paid directly by the insurer.

9 ~~(4)~~(5) A worker may not receive temporary total benefits and the benefits under subsection (2)
10 during the same period of time.

11 ~~(5)~~(6) A rehabilitation provider authorized by the insurer shall continue to assist the injured worker
12 until the rehabilitation plan is completed.

13 ~~(6)~~(7) To be eligible for benefits under this section, a worker is required to begin the rehabilitation
14 plan within 78 weeks of reaching maximum medical healing.

15 ~~(7)~~(8) A worker may not receive both wages and rehabilitation benefits without the written
16 consent of the insurer. A worker who receives both wages and rehabilitation benefits without written
17 consent of the insurer is guilty of theft and may be prosecuted under 45-6-301."

18

19 NEW SECTION. Section 4. Effective date -- applicability. [This act] is effective July 1, 2001, and
20 applies to a claim for benefits for an injury occurring on or after July 1, 2001.

21

- END -