

FISCAL NOTE

Bill #: HB0333

Title: Work comp attorney fees for improperly denied medical benefit

Primary

Sponsor: Larry Jent

Status: Second Reading

| | | | |
|-------------------|------|---------------------------------|------|
| Sponsor signature | Date | Chuck Swysgood, Budget Director | Date |
|-------------------|------|---------------------------------|------|

Fiscal Summary

| | <u>FY2002</u> <u>Difference</u> | <u>FY2003</u> <u>Difference</u> |
|-----------------------|--|--|
| Expenditures: | | |
| State Special Revenue | Unknown | Unknown |
| Proprietary | Cannot Determine | Cannot Determine |
| Revenue: | | |
| State Special Revenue | 0 | 0 |
| Proprietary | Cannot Determine | Cannot Determine |

Net Impact on General Fund Balance: There is the potential for awards of attorney fees to increase costs of workers' compensation insurance. Any increased cost would apply upward pressure on workers' compensation premiums paid by state agencies. General Fund may fund premiums paid by state agencies. This amount cannot be determined.

| | | | | | |
|-------------------|------------------|----------------------------------|-------------------|------------------|-------------------------------|
| <u>Yes</u> | <u>No</u> | | <u>Yes</u> | <u>No</u> | |
| | X | Significant Local Gov. Impact | X | | Technical Concerns |
| | X | Included in the Executive Budget | X | | Significant Long-Term Impacts |
| | X | Dedicated Revenue Form Attached | X | | Family Impact Form Attached |

Fiscal Analysis

ASSUMPTIONS:

1. In FY 2000, a total of 86 petitions were filed in Workers' Compensation Court involving the State Fund. Forty-seven of these cases were settled during the 90 days prior to hearing.

2. The Lockhart Decision impacts payment of attorney fees and costs associated with denial of medical benefits. The injured employees' attorney fees are taken from the medical payments.
3. The State Fund is required by law to set rates at amounts sufficient to carry the estimated cost of all claims to maturity, in accordance with 39-71-2330, MCA. Increased workers' compensation costs must be offset with increased premium rates.
4. This bill will likely increase costs to the workers' compensation industry; however, the specific fiscal impact cannot be determined.

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5. Uninsured Employer Fund (UEF) claims filed in FY 2002 and FY 2003 will occur with the same frequency and be of the same severity as FY 2001 claims.
6. Court decisions reversing UEF claim denials will occur with the same frequency as in FY 2001.
7. During FY 2001, two UEF claim denials were found by the Workers' Compensation Court to be compensable.
8. Any attorney fee awards against the UEF for medical claims will be computed based on an hourly rate for the amount of time spent by an attorney on the medical issue in the claim as required by 39-71-614, MCA.
9. The UEF lacks any base line data on which to ascertain how many hours an attorney might claim regarding the medical component of a claim. It is assumed that attorneys will routinely claim hours worked for a medical component of claim denials

TECHNICAL NOTES:

1. The bill provides an attorney fee award in a claim where medical benefits are at issue. Many cases involve an outright claim denial where no benefits will be paid. It is unclear whether HB 333 is intended to provide an award of attorney fees in a case involving an outright claim denial where there may not be a specific medical benefit issue, but if the claim is found compensable, medical benefits will be paid.