

ANALYSIS OF MONTANA HOUSE BILL 466

HB 466 proposes several changes to permanent partial disability (PPD) claims in Montana effective July 1, 2005. Among the changes are an increase in the weekly benefit rate, the maximum weekly benefit and the maximum duration for PPD claims. In addition, the bill proposes increases to PPD wage loss and lifting modifiers. **HB 466 is expected to result in an overall system costs increase of 15% to 20%.**

Summary/Actuarial Analysis of Proposals

HB 466 proposes the following changes to the PPD award structure in Montana:

1. Increases the maximum duration from 375 to 400 weeks;
2. Increases the weekly benefit rate from 66 2/3% to 85%;
3. Increases the maximum weekly benefit from 50% to 75% of the state average weekly wage;
4. Increases modifier from 5% to 20% for injured workers who had been performing "heavy labor activity" pre-injury but can only perform "light labor activity" post-injury;
5. Increases modifier from 3% to 15% for injured workers who had been performing "heavy labor activity" pre-injury but can only perform "medium labor activity" post-injury;
6. Increases modifier from 2% to 10% for injured workers who had been performing "medium labor activity" pre-injury but can only perform "light labor activity" post-injury;
7. Increases modifier for claimants with wage loss of at least \$4 but less than \$6 from 20% to 30%;
8. Increases modifier for claimants with wage loss of \$6 or more from 20% to 40%.

The increase in the compensation rate from the current 66 2/3% to 85% would make Montana the jurisdiction with the highest PPD compensation rate in the country. Considering that indemnity benefits are not taxed, the proposed 85% rate would leave many injured workers with more take home benefits than their pre-injury wages provided. Since the maximum weekly benefit would be increased to an even greater extent than the rate, there would be no mitigation of the benefit increase due to capping.

The substantial increases in the weekly benefit rate and the maximum weekly compensation rate would result in a 42% increase in the average PPD award. The change in maximum duration would increase the maximum number of weeks by approximately 7%. **The combined direct effect of these changes, prior to any changes in modifiers or consideration of potential utilization increases, is a 52% increase on PPD awards,** with individual awards increasing a minimum of 36% up to 60% for all PPD claimants.

Currently in Montana, only PPD claimants with wage loss are eligible for modifiers. Under the proposal, the maximum PPD add-on modifier would significantly increase from the current 27% to 62%. With HB 466, **the average award for a PPD claimant with wage loss could be expected to more than double,** increasing by as much as 175% in some cases. Given the significant increase in the lifting modifiers, claimants who have no post-injury lifting restrictions now would have an incentive to seek lifting restrictions in order to receive a modifier. Also, wage loss modifiers for claimants with a wage loss of \$4 or more have the potential to double, which provides

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an incentive to not seek to maximize post-injury wages. If claimants were successful in moving to higher wage loss and labor activity restriction categories, their awards would increase even further.

At an 85% rate, PPD weekly payments would be higher than temporary total weekly payments, creating a great deal of incentive for claimants to seek PPD status. The significant increases in PPD indemnity benefits proposed in this bill provide considerable incentives to seek PPD benefits, which in turn could significantly increase system friction costs and attorney involvement. It is well documented in the research literature that large increases in benefits result in greater utilization of those benefits, and that same dynamic would be expected to come into play here due to the hefty benefit increases involved.

PPD awards account for approximately 18% of total system costs in Montana. **NCCI expects this bill to raise system costs by 15% to 20% or \$40M to \$54M.**

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