

HOUSE BILL NO. 500

INTRODUCED BY A. OLSEN

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TERMS FOR DESIGNATING A TREATING PHYSICIAN FOR WORKERS' COMPENSATION PURPOSES; AMENDING SECTION 39-71-1101, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 39-71-1101, MCA, is amended to read:

"39-71-1101. Choice of health care provider by worker -- insurer designation or approval of treating physician or referral to managed care or preferred provider organization -- payment terms --

definition. (1) ~~Prior to the insurer's designation or approval of a treating physician as provided in subsection (2) or a referral to a managed care organization or preferred provider organization as provided in subsection (8), a~~ A worker may choose a person who is listed in 39-71-116(41) for initial treatment and, after initial treatment and diagnosis, may designate that person or another person listed in 39-71-116(41) as a treating physician. The insurer may verify that the designated person agrees to carry out the responsibilities in subsection (2). Subject to subsection (2), if the person listed under 39-71-116(41) chosen by the worker agrees to comply with the requirements of subsection (2), that person is the treating physician.

~~(2) Any time after acceptance of liability by an insurer, the insurer may designate or approve a treating physician who agrees to assume the responsibilities of the treating physician. The designated or approved treating physician:~~

- (a) is responsible for coordinating the worker's receipt of medical services as provided in 39-71-704;
- (b) shall provide timely determinations required under this chapter, including but not limited to maximum medical healing, physical restrictions, return to work, and approval of job analyses, ~~and shall provide~~ documentation;
- (c) shall provide, recommend, or arrange for treatment within the utilization and treatment guidelines or obtain prior approval for other treatment; and
- (d) shall conduct, recommend, or arrange for timely impairment ratings.

(3) If the worker fails to choose a treating physician or if at any time the treating physician fails to meet



1 the requirements of subsection (2), the insurer may designate or change the treating physician if the insurer has
 2 accepted liability for the claim and has authorized treatment.

3 (4) If the insurer changes the treating physician as provided in subsection (3), the insurer shall:

4 (a) notify the worker in writing of the change and the reason for the change; and

5 (b) consult with the worker to identify and choose another treating physician.

6 (5) A previous treating physician shall remain a worker's treating physician until a new treating physician
 7 accepts the position.

8 (6) Any designation of a treating physician must take into account and give due consideration to the type
 9 of injury or occupational disease as well as address practical considerations, including the worker's proximity to
 10 and the availability of the treating physician.

11 (7) The treating physician may be changed at any time with the consent of the worker and the insurer.

12 ~~(3)~~(8) The treating physician may refer the worker to other health care providers for medical services,
 13 as provided in 39-71-704, for the treatment of a worker's compensable injury or occupational disease. A health
 14 care provider to whom the worker is referred by the ~~designated~~ treating physician is not responsible for
 15 coordinating care or providing determinations as required of the treating physician.

16 ~~(4)~~(9) The treating physician ~~designated or approved by the insurer~~ must be reimbursed at 110% of the
 17 department's fee schedule.

18 ~~(5)~~(10) A health care provider to whom the worker is referred by the treating physician must be
 19 reimbursed at 90% of the department's fee schedule.

20 ~~(6)~~(11) A health care provider providing health care on a compensable claim prior to the designation or
 21 approval of the treating physician by the insurer must be reimbursed at 100% of the department's fee schedule.

22 ~~(7)~~(12) Regardless of the date of injury, the medical fee schedule rates in effect as adopted by the
 23 department in 39-71-704 and the percentages referenced in subsections ~~(4)~~ (9) through ~~(6)~~ (11) of this section
 24 apply to the medical service on the date on which the medical service was provided.

25 ~~(8)~~(13) The insurer may direct the worker to a managed care organization or a preferred provider
 26 organization for designation of the treating physician.

27 ~~(9)~~(14) After the insurer directs a worker to a managed care organization or a preferred provider
 28 organization, a health care provider who otherwise qualifies as a treating physician but who is not a member of
 29 a managed care organization or a preferred provider organization may not provide treatment unless authorized
 30 by the insurer.

1 ~~(10)~~(15) After the date that a worker ~~[whose injury is]~~ subject to the provisions of subsection ~~(9)~~ (13)
2 receives individual written notice of a referral, the worker must, unless otherwise authorized by the insurer,
3 receive medical services from the organization designated by the insurer, in accordance with 39-71-1102 and
4 39-71-1104. The designated treating physician in the organization then becomes the worker's treating physician.
5 The insurer is not liable for medical services obtained otherwise, except that a worker may receive immediate
6 emergency medical treatment for a compensable injury from a health care provider who is not a member of a
7 managed care organization or a preferred provider organization.

8 ~~(11)~~(16) Posting of managed care requirements in the workplace on bulletin boards, in personnel policies,
9 in company manuals, or by other general or broadcast means does not constitute individual written notice. To
10 constitute individual written notice under this section, information regarding referral to a managed care
11 organization or a preferred provider organization must be provided to the worker in written form by mail or in
12 person after the date of injury or diagnosis of occupational disease."

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14 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 2015.

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