

HOUSE BILL NO. 229

INTRODUCED BY A. OLSEN

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TERMS FOR AN INJURED WORKER TO DESIGNATE 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 meeting the criteria set forth 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 review~~ review 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) Any designation of a treating physician must take into account and give due consideration to the type



1 of injury or occupational disease as well as address practical considerations, including the worker's proximity to  
 2 and the availability of the treating physician.

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

4 ~~(3)~~(5) The treating physician may refer the worker to other health care providers for medical services,  
 5 as provided in 39-71-704, for the treatment of a worker's compensable injury or occupational disease. A health  
 6 care provider to whom the worker is referred by the ~~designated~~ treating physician is not responsible for  
 7 coordinating care or providing determinations as required of the treating physician.

8 ~~(4)~~(6) The treating physician ~~designated or approved by the insurer~~ must be reimbursed at 110% of the  
 9 department's fee schedule.

10 ~~(5)~~(7) A health care provider to whom the worker is referred by the treating physician must be reimbursed  
 11 at 90% of the department's fee schedule.

12 ~~(6)~~(8) A health care provider providing health care on a compensable claim prior to the designation ~~or~~  
 13 ~~approval of the~~ a treating physician ~~by the insurer~~ must be reimbursed at 100% of the department's fee schedule.

14 ~~(7)~~(9) Regardless of the date of injury, the medical fee schedule rates in effect as adopted by the  
 15 department in 39-71-704 and the percentages referenced in subsections ~~(4)~~ (6) through ~~(6)~~ (8) of this section  
 16 apply to the medical service on the date on which the medical service was provided.

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

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

22 ~~(10) After the date that a worker subject to the provisions of subsection (9) receives individual written~~  
 23 ~~notice of a referral, the worker must, unless otherwise authorized by the insurer, receive medical services from~~  
 24 ~~the organization designated by the insurer, in accordance with 39-71-1102 and 39-71-1104. The designated~~  
 25 ~~treating physician in the organization then becomes the worker's treating physician. The insurer is not liable for~~  
 26 ~~medical services obtained otherwise, except that a worker may receive immediate emergency medical treatment~~  
 27 ~~for a compensable injury from a health care provider who is not a member of a managed care organization or a~~  
 28 ~~preferred provider organization.~~

29 ~~(11) Posting of managed care requirements in the workplace on bulletin boards, in personnel policies,~~  
 30 ~~in company manuals, or by other general or broadcast means does not constitute individual written notice. To~~

1 ~~constitute individual written notice under this section, information regarding referral to a managed care~~  
2 ~~organization must be provided to the worker in written form by mail or in person after the date of injury or~~  
3 ~~occupational disease."~~

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5 NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2017.

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