

1 HOUSE BILL NO. 199

2 INTRODUCED BY . HARVEY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF LABOR AND INDUSTRY TO
5 PROVIDE ADDITIONAL INFORMATION TO INJURED WORKERS; PROVIDING FOR JOINT PETITIONS
6 FOR REOPENING OF MEDICAL BENEFITS; AMENDING SECTIONS 39-71-606 AND 39-71-717, MCA;
7 REPEALING SECTION 39-71-2215, MCA; AND PROVIDING EFFECTIVE DATES."

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

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11 **Section 1.** Section 39-71-606, MCA, is amended to read:

12 **"39-71-606. Insurer to accept or deny claim within 30 days of receipt -- notice of benefits and**
13 **entitlements to claimants -- notice of denial -- notice of reopening -- notice to employer -- employer's**
14 **right to loss information.** (1) Each insurer under any plan for the payment of workers' compensation benefits
15 shall, within 30 days of receipt of a claim for compensation signed by the claimant or the claimant's
16 representative, either accept or deny the claim and, if denied, shall inform the claimant and the department in
17 writing of the denial.

18 (2) (a) The department shall make available to insurers for distribution to claimants sufficient copies
19 of a document describing current benefits and entitlements available under Title 39, chapter 71. On receipt of a
20 claim, each insurer shall promptly notify the claimant in writing of potential benefits and entitlements available
21 by providing the claimant a copy of the document prepared by the department.

22 (b) The department may provide information to claimants regarding nonstatutory programs or benefits
23 offered to injured workers or the families of injured workers by a nonprofit organization. The department may
24 not provide the contact information of an injured worker to such an organization without the express consent of
25 the injured worker.

26 (3) Each insurer under plan No. 2 or No. 3 for the payment of workers' compensation benefits shall
27 notify the employer of the reopening of the claim within 14 days after the reopening of a claim for the purpose of
28 paying compensation benefits.

1 (4) (a) When requested by an employer that an insurer currently insures or has insured in the
2 immediately preceding 5 years or when requested by the employer's designated insurance producer, an insurer
3 shall provide the loss information listed in subsection (4)(b) within 10 days of the request.

4 (b) Loss information provided under this subsection (4) must include for the period requested:

5 (i) all date of injury or occupational disease data for the employer's claims;

6 (ii) payment data on the employer's closed claims; and

7 (iii) payment data and loss reserve amounts on the employer's open claims, including all compensation
8 benefits that are ongoing and are being charged against that employer's account.

9 (c) The information provided under this subsection (4) is confidential insurance information. The
10 information may be used by the employer for internal management purposes or for procuring insurance
11 products but may not be disclosed for any other purpose without the express written consent of the insurer.

12 (5) Failure of an insurer to comply with the time limitations required in subsections (1) and (3) does
13 not constitute an acceptance of a claim as a matter of law. However, an insurer who fails to comply with 39-71-
14 608 or subsections (1) and (3) of this section may be assessed a penalty under 39-71-2907 if a claim is
15 determined to be compensable by the workers' compensation court."

16

17 **Section 2.** Section 39-71-717, MCA, is amended to read:

18 **"39-71-717. Reopening of terminated medical benefits -- medical review.** (1) A petition to reopen
19 medical benefits that terminate under 39-71-704(1)(f) must be reviewed as provided in this section.

20 (2) Medical benefits may be reopened only if the worker's medical condition is a direct result of the
21 compensable injury or occupational disease and requires medical treatment in order to allow the worker to
22 continue to work or return to work. Medical benefits closed by settlement or court order are not subject to
23 reopening.

24 (3) A review of a petition to reopen medical benefits must be conducted by a medical review panel as
25 provided in subsection (4) or, if stipulated by the worker and the insurer, solely by the department's medical
26 director.

27 (4) The medical review panel must be composed of the department's medical director and two
28 additional physicians who are licensed to practice medicine in Montana and who have expertise and experience

1 in the area of medicine that is relevant to the worker's condition. The department's medical director shall serve
2 as the presiding officer of the medical review panel. Participants on the medical review panel must be
3 reimbursed as provided in 2-18-501 through 2-18-503 if travel is required for a review and must be paid a
4 reasonable fee for services.

5 (5) A petition for reopening of medical benefits must be filed with the department within 5 years of the
6 termination of medical benefits pursuant to 39-71-704(1)(f). A petition may not be filed more than 90 days
7 before benefits are to terminate.

8 (6) Upon receipt of a petition to reopen medical benefits, the department shall request from the
9 insurer a copy of the worker's medical records contained in the insurer's claim file. The worker or the insurer
10 may submit additional information that is relevant to the petition to reopen medical benefits.

11 (7) The proof necessary to support reopening of medical benefits must be a preponderance of the
12 evidence.

13 (8) Within 60 days of the submission of a petition to reopen medical benefits, the medical review
14 panel or the department's medical director shall issue a report. The report must provide the rationale for the
15 decision reached. A report issued by the medical review panel must be supported by a majority of the panel
16 members. If the report concludes that medical benefits must be reopened, the report must state the extent to
17 which the benefits must be reopened consistent with the utilization and treatment guidelines. Benefits reopened
18 pursuant to this section remain open for 2 years or until maximum medical improvement is achieved following
19 surgery or the recommended medical treatment, whichever occurs first. If the medical panel specifically
20 approves treatment beyond 2 years, medical benefits remain open for as long as recommended by the medical
21 panel. The petitioner and the insurer shall submit updated information to the medical panel every 2 years, and
22 every subsequent 2 years the medical panel shall review the claims that were reopened for longer than 2 years
23 to determine whether to change the previous recommendation.

24 (9) If a joint petition to reopen medical benefits is filed by the insurer and worker, the medical and
25 other records required by subsections (3), (4), and (6) do not need to be submitted. A report on a joint petition is
26 not required from the medical director or a medical review panel. A joint petition reopens medical benefits. The
27 joint petition may specify the term for which benefits will remain open. Nothing in this subsection may be
28 construed to require an insurer to jointly petition to reopen medical benefits.

1 ~~(9)~~(10) A party aggrieved by a decision of the department's medical director or medical review panel
2 may, after satisfying the dispute resolution requirements provided in this chapter, file a petition with the workers'
3 compensation court. The report of the department's medical director or the medical review panel is presumed to
4 be correct and may be overcome only by clear and convincing evidence."

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6 NEW SECTION. Section 3. Repealer. The following section of the Montana Code Annotated is
7 repealed:

8 39-71-2215. Security deposit to ensure payment of liability of plan No. 2 insurer.

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10 NEW SECTION. Section 4. Effective dates. (1) Except as provided in subsection (2), [this act] is
11 effective July 1, 2021.

12 (2) [Section 2] and this section are effective on passage and approval.

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