

WORKERS' COMPENSATION TREATING PHYSICIANS

LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting (5-4-105, MCA; [Chapter 309, Laws of 2017](#)). The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

Legislation can be complex, and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.

Background Materials and Research

Topic Summary: A treating physician in workers' compensation cases is primarily responsible for the delivery and coordination of the injured worker's medical services. Similar to non-workers' compensation cases, a treating physician in workers' compensation can recommend return to work with and without restrictions. In workers' compensation, if a treating physician returns an injured worker to full duty without restrictions, the workers' compensation disability payments end because the injured worker can go back to work.

Pursuant to 39-71-1101, MCA, treating physicians are responsible for coordinating medical services, making status determinations like maximum medical improvement and physical restrictions, providing treatment, and providing an impairment rating, if applicable. The definition of treating physician in 39-71-116, MCA, is broad and could include a physician, chiropractor, osteopath, dentist or advanced practice registered nurse. Treating physicians may also refer workers to other providers for appropriate treatment. Prior to the 2011 Legislature's passage of HB 334, which contained significant reforms in Montana's workers' compensation laws, injured workers could name their treating physician.

Although an injured worker can get initial treatment from a provider of the worker's choice, the change in HB 334 allowed an insurer to name the treating physician for subsequent treatment. What has resulted is a dispute between insurers who say the approach now allows the insurer to choose the appropriate treating physician and avoid worker "doc shopping" in contrast to workers who say insurers engage in their own form of "doc shopping" for a treating physician who may recommend the least costly but potentially least effective treatment. Among problems with finding/naming treating physicians is the rural nature of the state, with a Department of Labor and Industry 2008 survey finding that 15.2% of injured workers have to travel 100 or more miles to get to a treating physician. Anecdotally, stakeholders have shared that not all treating physicians want the job, in part because of the additional paperwork and the related role of deciding how quickly a patient can return to work. One of the

reforms in HB 334 increased the treating physician's payment as an incentive under 39-71-1101, MCA, to 110% of the designated fee schedule.

Legislative Services Division Materials:

See Economic Affairs Interim Committee Meeting on [March 27, 2014](#): -- Injured Workers re: Treating Physician [1](#), [2](#), [3](#), [4](#)

Other Materials:

Montana State Fund [Review](#) of Treating Physician Designation Authority, March 2014

Introduced Legislation

*Chapter number assigned means bill was passed and approved.

2021

[HB 412](#) – Died in Process. : “AN ACT REVISING THE TERMS FOR AN INJURED WORKER TO DESIGNATE A TREATING PHYSICIAN FOR WORKERS' COMPENSATION PURPOSES; REVISING REFERENCES TO MANAGED CARE OR PREFERRED PROVIDER ORGANIZATIONS USED AS A TREATING PHYSICIAN; AMENDING SECTIONS 39-71-1101, 39-71-1102, AND 39-71-1103, MCA; AND PROVIDING AN EFFECTIVE DATE.”

2019

[HB 313](#) – Died in Process. "AN ACT REVISING THE TERMS FOR AN INJURED WORKER TO DESIGNATE A TREATING PHYSICIAN FOR WORKERS' COMPENSATION PURPOSES; REVISING REFERENCES TO MANAGED CARE OR PREFERRED PROVIDER ORGANIZATIONS USED AS A TREATING PHYSICIAN; AMENDING SECTIONS 39-71-1101, 39-71-1102, AND 39-71-1103, MCA; AND PROVIDING AN EFFECTIVE DATE."

2017

[HB 229](#) – Died in Standing Committee. "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."

2015

[HB 500](#) – Missed Deadline for General Bill Transmittal. "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."

[HB 622](#) – Missed Deadline for Revenue Bill Transmittal. "AN ACT REVISING CHOICE OF TREATING PHYSICIAN FOR WORKERS' COMPENSATION TREATMENT; ALLOWING AN INSURER OR INJURED WORKER TO MAKE ONE DISPUTED CHANGE EACH UPON PAYMENT OF A CHANGE FEE; REQUIRING NOTICE OF A MEDIATION OPTION; REQUIRING A TREATING PHYSICIAN TO BE DESIGNATED IF AN INJURED WORKER IS UNABLE TO RETURN TO WORK WITHIN 1 MONTH OF BEING INJURED; PROVIDING A PENALTY

FOR AN INSURER'S FAILURE TO PAY A CHANGE FEE; AMENDING SECTIONS 39-71-201 AND 39-71-1101, MCA; AND PROVIDING AN EFFECTIVE DATE."

2013

None

2011

[HB 334](#) – Chapter Number Assigned. AN ACT GENERALLY REVISING WORKERS' COMPENSATION LAWS; PROVIDING FOR CLOSURE OF CLAIMS; PROVIDING A PROCESS TO REOPEN MEDICAL CLAIMS; ESTABLISHING A MEDICAL DIRECTOR AND MEDICAL REVIEW PANEL; REVISING PERMANENT PARTIAL DISABILITY DEFINITION AND BENEFITS; CLARIFYING WHAT CONSTITUTES COURSE AND SCOPE OF EMPLOYMENT; ALLOWING RETROACTIVE BENEFIT PAYMENTS TO CERTAIN WORKERS; PROVIDING FOR SETTLEMENTS OF MEDICAL CLAIMS; PROVIDING FOR INSURER DESIGNATION OF TREATING PHYSICIANS; PROVIDING PAY SCALES FOR TREATING PHYSICIANS AND HEALTH CARE PROVIDERS; PROVIDING CERTAIN LIMITATIONS ON MEDICAL PAY SCHEDULES FOR THE BIENNIUM; REQUIRING THE LEGISLATIVE AUDITOR TO SUBMIT REPORTS ON THE MONTANA STATE FUND TO THE INSURANCE COMMISSIONER; REVISING VOCATIONAL REHABILITATION SERVICES AND TERMS TO ASSIST AN EMPLOYEE IN STAYING AT WORK OR RETURNING TO WORK; CREATING A STAY-AT-WORK/RETURN-TO-WORK ASSISTANCE FUND AND PROVIDING FOR ASSESSMENTS; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 39-71-105, 39-71-116, 39-71-118, 39-71-225, 39-71-315, 39-71-320, 39-71-403, 39-71-407, 39-71-703, 39-71-704, 39-71-711, 39-71-721, 39-71-736, 39-71-741, 39-71-1011, 39-71-1025, 39-71-1031, 39-71-1101, 39-71-1102, 39-71-1106, AND 39-71-2361, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES.

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