



OUR FILE LE085-001

March 27, 2014

Economic Affairs Interim Committee Members and Staff
P.O. Box 201706
Helena, MT
59620-1706

Re: *Workers' Compensation Treating Physician Selection by Insurers*

Dear Economic Affairs Interim Committee Members and Staff:

My name is Michele Reinhart Levine. I am an Associate Attorney at Fair Claim Law Firm in Great Falls, Montana. Our firm represents injured workers across Montana in worker's compensation claim disputes with insurers.

I understood the reasons behind House Bill 334 (2011) workers' compensation reforms, which were passed at a time when Montana's workers' compensation insurance rates were the highest in the nation. Unfortunately, some of those reforms are having harmful effects on injured workers. In particular, changes to Mont. Code Ann. §39-71-1101, allow insurance companies to select the treating physicians for insured workers. In the past, injured workers could choose their own doctors.

Treating physicians have great power in the work comp systems. A treating physician can determine the following for an injured worker, including:

1. The medical diagnosis;
2. Need for treatment;
3. Causation and whether the worker's medical problem is related to the claimant's industrial injury or occupational disease;
4. When the worker is at maximum medical improvement or as good as he or she is likely to get;
5. When the worker can return to work;
6. Whether the worker has permanent physical restrictions due to the industrial injury or occupational disease;
7. Whether the injured worker can return to the time-of-injury job or an alternative job, which impacts the worker's potential wage loss; and
8. Whether the injured worker will need additional medical treatment or not.

When a treating physician determines that the worker is able to return to work with the same employer and does not have wage loss, the insurer will terminate wage loss benefits. Insurers may have financial incentives to find insurance friendly doctors who:

1. Opine the worker's medical condition is either not related to the worker's work-related injury or occupational disease;
2. Ignore objective medical findings establishing the causation/connection between the injured worker's medical condition and work related injury/OD claim;
3. Deny or delay necessary medical treatment;
4. Fail to accurately and timely diagnose the medical condition;
5. Opine that the injured worker can return to the time of injury job or a modified job prematurely, causing further injury or aggravation to the worker;

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