



Economic Affairs Interim Committee

63rd Montana Legislature

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Treating Physician Issues Before the Economic Affairs Interim Committee

To: Economic Affairs Interim Committee
From: Pat Murdo, Committee Staff
Date: May 5, 2014

The Economic Affairs Interim Committee at its March 27, 2014, meeting asked for more information about changes related to treating physicians that were included in House Bill No. 334 in the 2011 Session. The following changes were in 39-71-1101, MCA:

- reimbursement changes, in which the treating physician is to receive 110% of the department's fee schedule for services. This change was intended to offset the extra paperwork required of treating physicians.
- ability of an insurer to change the injured worker's choice of physician after the insurer accepts liability for a claim.

At the March meeting, two attorneys for injured workers presented information that indicated some insurers were using the choice option to shop for doctor's opinions or avoid certain presumably costly operations. The committee asked for a panel of treating physicians to learn opinions from at least these representatives of whether the change in law was working to provide incentives for being a treating physician or discouraging physicians from handling workers' compensation cases.

The panel features doctors who have voluntarily agreed to participate in the discussion. Dr. John Petrisko works at the Billings Clinic as an occupational health physician. Dr. Patrick Galvas is on the road but said he may be able to call in. Dr. Phillip Steele is an orthopedic specialist in Helena.

In addition to asking treating physicians about their perception of the law change, the Committee asked for more detailed responses from insurers as to how often they have changed treating physicians from the ones selected by the injured workers. In most cases the option to change has not been used. Information has been compiled by the Montana Self-Insurers Association and Montana State Fund. Calls by staff to two third-party administrators (one in Billings and one in Missoula) also indicated that the option of choice was used sparingly. In part this is because in rural areas there is not much choice of physician. In the cities of Billings and Missoula, in particular, there may be more likelihood of a third-party administrator turning to certain doctors who have willingly served as treating physicians in the past. Much of the information is anecdotal.

Mike Marsh, with Midland Claims Service in Billings, provided the following comment via an April 18, 2014, email:

While one side claims that balance is lacking, we don't see that at all in our practice. Where the balance was previously lacking was when the worker could (and still do at times) change physicians or use multiple physicians without any ability for common sense intervention by the insurer or claims facility. The issue of physician shopping may be one of system abuse, and unfortunately a very limited number of parties on both sides of the issue may be guilty of the practice at times. As far as I was aware, ANY issue in Montana can go to mediation, the requisite step before entering the MT Workers' Compensation Court. The issue of 'correct' or 'timely' treatment is used sometimes to justify positions, but typically it is the issue of CAUSATION that is the cause of the doctor shopping. I am aware of very few instances where either party will change doctors because the treatment is not appropriate for the 'accepted' condition.