

# **MONTANA SELF INSURERS' ASSOCIATION**

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## **MEMORANDUM**

TO: Economic Affairs Interim Committee

FROM: Bob Worthington, Montana Self-Insurers Association

DATE: May 1, 2014

RE: Use of Provision of Insurer to Change Treating Physician for an Injured Worker

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HJR 25, passed by the 2013 Montana Legislature, directed the Economic Affairs Interim Committee (EAIC) to study a number of matters, including some addressing the administration of Montana's workers' compensation laws. The study directive included an analysis of the Sec. 39-71-1101, MCA that allows an insurer to seek a change in the treating physician of an injured worker. A discussion of this subject was held at the March 27, 2014 meeting of the EAIC. At the conclusion of that discussion a request was made that insurers provide the Committee with an estimate of the usage of this provision since its passage in 2011. The following is a response to that request on behalf of Plan 1 Self-Insured Employers in Montana. The Montana Self Insurers' Association represents self-insured employers throughout Montana. The membership includes single employers and group self-insured programs.

Coverage is provided to more than 95,000 employees across the work spectrum and includes employees of private and public operations. Adjustment of claims for injured workers are handled in-house by some self-insured entities and by third party administrators for others.

In response to the inquiry about the use of the change in treating physician provision (Sec. 39-71-1101) it is noted that none of the membership collects data that singles out or identifies this action. Therefore, all analysis of use of this provision was done by a query of examiners who service the claims. With the void of empirical data the numbers derived for this analysis were the result of the recollections of examiners and their anecdotal comments. The survey for this date included all members with large employee bases. For the lack of time it did not include all MSIA members. The inquiry to members asked for data on claims incurred since the implementation of the provision July 1, 2011.

The survey determined that action to change treating physician was utilized by members surveyed a total of less than 30 times. During the period involved members surveyed had incurred approximately 15,000 claims. This results in a utilization of the provision in less than .02% of the claims incurred by member workers. The data highlights the fact the provision is used very sparingly by Plan 1 insurers. When asked why the change in physician was made, in the vast majority of the instances the change was made to obtain medical treatment specifically directed to the needs of the injured worker. An example of this type of action would involve a claim where the worker's injuries changed or matured to a point where more specialized

treatment was appropriate. In a majority of instances discussed the change was made in consultation with the injured worker and with their mutual consent to the change.

The analysis revealed one instance where a change in treating provider was made because of challenges with a specific provider. With claims dealing with several injured workers treated by the same provider, the provider would not produce appropriate medical notes and produced no evidence of medical improvement in any of the cases, even after repeated requests. The treating provider was changed to obtain prompt and appropriate treatment for the injured workers.

The analysis of the use of the provision allowing an insurer to change the treating physician suggests its usage is providing results as intended in the passage of the legislation. Testimony on this provision of HB 334 stated its implementation would provide prompt and better directed treatment for the injured worker. The exact result of this analysis.

The ability of an insurer to change the treating physician is a useful and productive tool in the management of workers compensation claims and the desire to provide prompt, effective treatment to the injured worker. While used very sparingly, the intended outcome is being achieved.

The Montana Self Insurers Association utilizes this provision where appropriate and supports its retention in law. We would strongly oppose any attempt to alter or remove this provision.