



Preliminary Cost Impact Analysis

Montana LC1304

As Requested on 12/20/2016

NCCI has completed a preliminary cost impact analysis of Montana LC1304. This analysis includes a description of the change, an indication as to the anticipated direction of its cost impact, and identifies potential unintended consequences or other notable items.

The analysis was completed in an expedited manner and is considered preliminary. NCCI may supplement this document with a complete and final analysis of the proposal at a later date. It is possible that the estimated impact of the final analysis will differ materially from what is provided in this document. Note that the absence of an update to the preliminary analysis does not signify that this is NCCI's final assessment of the cost impact of the proposal.

Preliminary Directional Impact

NCCI estimates that Montana LC1304, if enacted, would result in an indeterminate increase on workers compensation (WC) system costs in Montana. Any cost impact would depend on the behavior of system participants (e.g., workers, insurers, and physicians). If enacted, any potential cost impacts from LC1304 would be reflected in subsequent NCCI loss cost filings in Montana.

Summary and Comments

Before July 1, 2011, injured workers in Montana were allowed to designate the initial treating physician, with insurer authorization required under certain circumstances.

HB 334, enacted effective July 1, 2011, continued to allow the injured worker to designate the *initial* treating physician; however, under HB 334 the insurer was enabled to designate or change the treating physician upon acceptance of liability. Data identifying the party that chooses the healthcare provider is not available to NCCI.

Proposed LC1304, with an effective date of July 1, 2017, would enable the worker to select the initial treating physician. Under LC1304, only if the injured worker fails to choose a treating physician, or if at any time the treating physician fails to meet the requirements for the designated treating physician as outlined in the statutes, would the insurer then be allowed to designate or change the treating physician if it accepts liability for the claim and has authorized treatment. The insurer would then be required to notify the worker of the change and consult with the worker to identify and choose another treating physician.

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Studies have indicated that medical and indemnity costs are lower for states that restrict an employee's choice of physician. Possible reasons are that employers are able to negotiate lower prices, control the utilization of services and achieve superior return-to-work outcomes by directing care through physicians with extensive experience handling occupational injuries. It is unclear how often an insurer-selected treating physician would occur, and how this would change from current practice. If enacted, LC1304 may result in an indeterminate increase in system costs, which would be reflected in subsequent NCCI loss cost filings in the state.

Additional Considerations

- Depending on the location of the worker, the consideration given to the proximity of an injured worker to the treating physician in the designation of the treating physician (as required under LC 1340) may restrict the degree of choice by both insurers and injured workers.
- The treating physician could (still) be changed at any time with consent of both the injured worker and the insurer.
- The requirement for the treating physician to provide documentation, for assessments such as the determination of maximum medical healing or physical restrictions, is stricken in the proposal. This may increase frictional costs to the extent that insufficient information is available to allow the affected parties to make fully-informed decisions related to the claim.
- If enacted as currently written, LC1304 would seem to apply to accidents occurring prior to its effective date, rendering this proposal to be retroactive.

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