

## **DISCUSSION DRAFT ONLY**

**24.29.3114 SUBMISSION OF MEDICAL RECORDS AND ADDITIONAL INFORMATION - EFFECT OF FAILURE TO SUBMIT MEDICAL RECORDS OR ADDITIONAL INFORMATION** (1) Section 39-71-717(8), MCA, requires the department to issue the report of the medical director within 60 days of when the petition is considered filed. Due to this 60-day requirement, except when the parties are submitting a joint petition, the parties have 14 days from the date the petition is considered filed in which to deliver to the department the medical records and any additional information the party wants considered in the medical review.

(a) The medical records and additional information must be delivered to the department in the manner and to an address as specified by the instructions.

(b) Any medical records or other information submitted by a party which have not previously been provided to the other party, must be sent to that other party at the same time the records or other information are delivered to the department.

(2) Medical records or additional information that are not timely delivered to the department will not be considered during the medical review. The medical review will be conducted considering only the materials that have been timely received by the department.

(3) Except as provided in subsection (5), when ~~When~~ the petition is considered filed, the department will direct the insurer to deliver to the department the medical records contained in the insurer's claim file. In addition to sending the medical records in the claims file as required, the insurer is allowed to deliver to the department other medical records and any additional information the insurer wants considered in the medical review.

(4) Once the petition is considered filed, the worker is allowed to deliver to the department medical records and any additional information the worker wants considered in the medical review.

(5) The parties are not required to submit medical records if they are filing a joint petition for reopening.

AUTH: 39-71-203, MCA

IMP: 39-71-717, MCA

**24.29.3117 JOINT PETITION FOR REOPENING** (1) If the worker and the insurer agree to reopen medical benefits, the worker and the insurer may file a joint petition for reopening. A joint petition for reopening must be made on the department's joint petition form. Joint petition forms are available from the department in the manner described in ARM 24.29.3111.

(2) All portions of the joint petition for reopening must be completed when it is delivered to the department, ~~and the~~ The medical records and other information the parties believe are important to the issue of reopening ~~must~~ are not required be provided to the department at that time.

(3) Because the parties agree on the need for reopening medical benefits, the department's medical director will summarily review and approve the petition, reopening medical benefits for not more than two years before being subject to a biennial review.

(4) In recognition that following the filing of the worker's petition, the parties may come to a voluntary agreement as to the nature and scope of medical benefits to be reopened, the department will treat the filing of a joint petition for reopening as a request for withdrawal of the worker's petition.

AUTH: [39-71-203](#), MCA

IMP: [39-71-717](#), MCA

#### 24.29.3127 PERIODIC REVIEW OF CERTAIN REOPENED MEDICAL BENEFITS

(1) The department's medical director shall biennially review claims where medical benefits have been reopened and the recommended duration of the reopening is more than two years, in order to determine whether the previous recommendations should be changed.

(2) The department shall request that the worker and the insurer deliver to the department medical records created since the prior medical review, as well as any additional information the party wants considered.

(a) The department's request shall specify a deadline by which those records and additional information must be received by the department.

(b) Any medical records or other information submitted by a party which have not previously been provided to the other party must be sent to that other party at the same time the records or other information are delivered to the department.

(3) The biennial review will be based on the materials previously submitted by the parties at the time the original petition for reopening was considered, and the records and information sent pursuant to (2). If a party does not timely send updated medical records or additional information, the medical director shall base the review on the materials available.

(4) In cases where the parties have filed a joint petition for reopening and did not furnish medical records to the department as permitted by ARM 24.29.3114 and 24.29.3117, the parties are not required to submit any additional medical records if the parties still agree that medical benefits should remain open until the next biennial review.

(a) If the parties notify the department that they do not agree to continue the reopening, the insurer shall promptly provide all of the medical records in the insurer's claim file. The insurer and the worker may also provide such additional information as they each may deem appropriate to the medical director's review of the reopening. The parties shall submit the medical records and information within the timeframe allowed by the medical director.

(b) The medical director shall allow at least 14 days for the parties to submit the records and information. Records and information not previously provided to the other party must be provided as required by subsection (2)(b).

~~(4)~~ (5) The prior report and recommendation regarding medical benefits is presumed to be correct. A previous recommendation may be changed only if it is based on the updated medical records and information sent to the department.

~~(5)~~ (6) Following the medical director's review, if the medical director believes there is reason to change the prior recommendation, the medical director shall:

(a) in cases where the original review was made by a medical review panel, convene a new medical review panel to review the updated medical records and information; or

(b) in cases where the original review was made solely by the medical director, issue a report and make recommendations as provided by ~~(6)~~ (7).

~~(6)~~ (7) Following completion of the periodic review, the medical director shall issue a report and make recommendations with respect to continuing the reopening of medical benefits.

~~(7)~~ (8) A party disagreeing with the medical director's report and recommendations may bring the dispute to the Workers' Compensation Court after following the mediation requirements provided by law.

AUTH: [39-71-203](#), MCA

IMP: [39-71-717](#), MCA

NOTE: The above draft language assumes that § 39-71-717, MCA, is suitably amended.