



Preliminary Cost Impact Analysis

Montana HB 334 (Two Potential Amendments) As Requested on 02/14/2011

NCCI has completed a preliminary cost impact analysis for alternatives for two of the proposed provisions in Montana House Bill 334, as requested by the Department of Labor & Industry, Employment Relations Division. This analysis includes a description of some of the two specific changes, an indication as to the approximate magnitude and direction of their 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 Cost Impacts

NCCI estimates that proposed changes to **the following two provisions** of HB 334 may impact overall Montana workers compensation system costs according to the table below:

Provision	Low Overall Impact	High Overall Impact
Permanent Partial Awards (§703)	-2.7% / -\$11M	-1.3% / -\$5M
Termination of Medical Benefits (§704 & New Section 20)	-17.1% / -\$70M	-3.3% / -\$14M
Subtotal – NOTE: Not all provisions of HB 334 have been evaluated	-19.3% / -\$81M	-4.6% / -\$19M

Note that each provision was evaluated in isolation, without taking into account the interaction between the various components in the proposal. If one or both of these provisions are ultimately enacted, the combined interactions and impacts may result in an overall impact that differs from a simple mathematical combination of the individual impacts described above.

No effective date was included with this proposal. NCCI assumed a prospective claims only effective date of July 1, 2011. NCCI's estimated cost impacts do not reflect any potential retroactive impacts. Such a retroactive application results in a different level of benefits that were contemplated in the premiums charged for policies written prior to July 1, 2011.

CONTACT: MIKE TAYLOR
10300 SW Greenburg Road, Suite 550 • Portland, OR 97223
Telephone: (503) 892-1858 • Mobile: (503) 789-2328 • Fax: (503) 244-7570
E-mail: Mike_Taylor@NCCI.com



Preliminary Cost Impact Analysis

Montana HB 334 (Two Potential Amendments) As Requested on 02/14/2011

Summary and Analysis

Permanent Partial (PP) Awards, Section 39-71-703

This proposal would entitle a worker to an impairment only award if that worker has no actual wage loss and a class 2 (or higher) permanent impairment as determined by the sixth edition of the American Medical Association (AMA) *Guides to the Evaluation of Permanent Impairment*. Injured workers with no actual wage loss and a class 1 permanent impairment rating would no longer receive impairment awards.

Injured workers with an actual wage loss and a permanent impairment rating that is greater than zero would continue to be entitled to PP disability awards.

Since injured workers with "class 1" impairment ratings and no wage loss would no longer receive PP impairment only awards, NCCI estimated the proportion of losses that would be considered class 1 without wage loss to derive the potential system cost savings under the proposal. Since the class of impairment rating varies by region of body and a mapping of body part to region is not readily available, NCCI assumed two scenarios:

- The first scenario (for the high impact) defines class 1 claims as those with an impairment rating of 1% to 5%
- The second scenario (for the low impact) defines class 1 claims as those with an impairment rating 1% to 10%¹.

The current proportions of PP impairment only award benefits associated with each scenario are 11.5% and 24.1%, respectively². PP disability and impairment only awards represent 57.5%³ of PP indemnity benefits. Since PP indemnity benefits represent 69.7%⁴ of indemnity benefits, and indemnity benefits represent 28.0%⁵ of total benefits, the overall system cost impact is between -2.7% and -1.3% (see the following table).

¹ In selecting these ranges, consideration was given to the mix of AMA Guide editions underlying the impairment rating data used in this analysis

² Based on Montana Department of Labor and Industry (DLI) data for accident years 2005 to 2008

³ Based on a sampling of Montana permanent partial claims from NCCI's Detailed Claim Information for accident years 2003 to 2007

⁴ Based on NCCI Statistical Plan data for the 24 month policy period ending 12/31/2007

⁵ Based on NCCI Financial Call data for policy years 2005 to 2007, trended to 7/1/2011

CONTACT: MIKE TAYLOR
10300 SW Greenburg Road, Suite 550 • Portland, OR 97223
Telephone: (503) 892-1858 • Mobile: (503) 789-2328 • Fax: (503) 244-7570
E-mail: Mike_Taylor@NCCI.com



Preliminary Cost Impact Analysis

Montana HB 334 (Two Potential Amendments) As Requested on 02/14/2011

Impact on PP Awards	Low	High
1. Impact on PP Awards	-24.1%	-11.5%
2. PP Awards % of PP Indemnity Benefits	57.5%	
3. PP Indemnity Benefits % of Indemnity Benefits	69.7%	
4. Indemnity Benefits % of Total Benefits	28.0%	
5. Impact on Montana Workers Compensation System Costs = $\{(1) \times (2)\} \times (3) \times (4)$	-2.7%	-1.3%

Termination of Medical Benefits, Section 39-71-704 & New Section 20

Under these provisions, medical benefits for work-related injuries would terminate 36 months from the date of the last indemnity payment. A worker may request the reopening of medical benefits if medical treatment is required to allow the worker to continue to work or return to work. Workers would have to submit a request for reopening of medical benefits to a medical panel for approval, the details of which are described in the proposal. If medical benefits are reopened, they would remain open for two years after reopening, or until maximum medical improvement is achieved, whichever occurs first. However, if the medical panel specifically approves treatment beyond two years, medical benefits remain open for as long as recommended by the medical panel. This proposal does not apply to a worker who is permanently totally disabled or for the repair or replacement of a prosthesis furnished as a result of a compensable injury.

Currently, except for the repair or replacement of a prosthesis furnished as a result of an industrial injury, medical benefits terminate when they are not used for a period of 60 consecutive months.

Additional attorney involvement is expected if this language is enacted. Courts may find that the proposed changes deprive an injured worker of his or her rights to no-fault workers compensation benefits. Additionally, older workers whose medical benefits have been terminated under this proposal may seek coverage through Medicare. In recent years, the Centers for Medicare and Medicaid Services (CMS) has been more active in enforcing its position as a secondary payer in cases involving workplace injuries. This enforcement has taken several forms including the requirement, in some cases, that funding be set aside for future medical services which may arise from a work related injury. Furthermore, CMS asserts its rights to seek reimbursement for the cost of medical services which might otherwise be payable by CMS for conditions that arose from work related injuries. **NCCI's cost impact analysis does not reflect the cost impacts**

CONTACT: MIKE TAYLOR
10300 SW Greenburg Road, Suite 550 • Portland, OR 97223
Telephone: (503) 892-1858 • Mobile: (503) 789-2328 • Fax: (503) 244-7570
E-mail: Mike_Taylor@NCCI.com



Preliminary Cost Impact Analysis

Montana HB 334 (Two Potential Amendments)
As Requested on 02/14/2011

related to these issues (attorney involvement, legality of language, and reimbursements to CMS).

For purposes of this analysis, NCCI assumes that medical-only claims are not impacted by this proposal, and temporary total disability (TTD) claims are not open longer than three years after the last indemnity payment. Medical benefits for permanent total claims and replacement of prosthetics for PP claims would not be affected by these provisions.

Since we have concluded that other claim types are not affected, NCCI relied on PP data to estimate the cost savings of this proposal. NCCI used data and information for policy years 2003 to 2007 to estimate the proportion of medical losses that would be paid for PP claims 36 months after the last indemnity payment. Medical costs for prosthetics estimated to occur 36 months after the last indemnity payment were subtracted from the estimated cost savings. The impact on medical costs ranged from -31.6% to -19.3% based on the maximum and minimum savings for policy years 2003 to 2007. Since medical benefits represent 72.0% of total benefits, the initial overall cost impact is -22.8% to -13.9%.

However, the maximum savings may not be realized due to the potential reopening of medical benefits. The reopening of claims is dependent upon the evidence provided to the medical review panel and what is ultimately considered necessary to continue to work or return to work. Since there is a great amount of uncertainty in determining the amount of savings that would be offset by the reopenings, NCCI has provided six scenarios that illustrate the potential impact due to these provisions based on a low, medium, and high level of reopening of claims.

	LOW	HIGH	LOW	HIGH	LOW	HIGH
	Low Reopening		Medium Reopening		High Reopening	
(1) Impact on Medical Prior to Reopenings	-31.6%	-18.2%	-31.6%	-18.2%	-31.6%	-18.2%
(2) Medical % of Overall Benefits	72.0%		72.0%		72.0%	
(3) Overall Impact Prior to Reopenings	-22.8%	-13.1%	-22.8%	-13.1%	-22.8%	-13.1%
(4) % of Claims Reopened	25.0%		50.0%		75.0%	
(5) Est Impact on Overall Montana System Costs	-17.1%	-9.8%	-11.4%	-6.6%	-5.7%	-3.3%
(5) = (3) x [1 - (4)]						

As stated previously, NCCI's cost impact analysis does not reflect the cost impacts related to the issues such as attorney involvement, legality of language, and reimbursements to CMS.

CONTACT: MIKE TAYLOR
10300 SW Greenburg Road, Suite 550 • Portland, OR 97223
Telephone: (503) 892-1858 • Mobile: (503) 789-2328 • Fax: (503) 244-7570
E-mail: Mike_Taylor@NCCI.com