



National
Council on
Compensation
Insurance, Inc.

Preliminary Cost Impact Analysis

Montana Medical Benefits Termination Proposal As Requested on 2/15/2011

NCCI has completed a preliminary cost impact analysis of a proposal requested on February 15, 2011 by the Department of Labor & Industry, Employment Relations Division. This analysis includes a description of the 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 this proposal could result in significant savings in the overall workers compensation system costs in Montana.

No effective date was included with this proposal. NCCI assumes that the proposal, if enacted, would apply to accidents occurring on or after July 1, 2011. NCCI's estimated cost impacts do not reflect any potential retroactive impacts.

Summary and Analysis

Under this proposal, medical benefits for work-related injuries would terminate 60 months after the date of injury or diagnosis of an occupational disease. A worker's medical benefits could reopen 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. Medical benefits closed by settlement or court order would not be subject to reopening. If medical benefits were 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 would remain open for as long as recommended by the medical panel. This proposal would 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.

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

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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 preliminary cost impact analysis does not reflect the cost impacts related to these issues (attorney involvement, legality of language, and reimbursements to CMS). For all of these issues, the estimated cost savings will likely be reduced by an indeterminate amount.**

For purposes of this analysis, NCCI assumes that medical-only and temporary total disability claims would not be impacted by this proposal, since these types of claims are typically not open longer than 60 months after the date of injury or diagnosis of an occupational disease. As stated in the proposal, medical benefits for permanent total claims and replacement of prosthetics for permanent partial (PP) claims would not be affected by these provisions.

NCCI relied on PP data to estimate the potential cost savings of this proposal. NCCI used Montana Workers Compensation Statistical Plan data for policy years 2003 to 2007 to estimate the proportion of medical losses expected to be paid for PP claims more than 60 months after the date of injury or diagnosis of an occupational disease. Medical costs for prosthetics estimated to be paid 60 months after the date of injury were subtracted from the estimated cost savings. The overall medical cost impact is estimated to be -33.6% to -21.3% (based on the lowest and highest impacts from 2003 to 2007). Since medical benefits comprise 72%¹ of overall workers compensation benefits in Montana, the overall system cost impact from this proposal is estimated to be between -24.2% ($= -0.336 \times 0.72$) and -15.3% ($= -0.213 \times 0.72$) (prior to reopenings).

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

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However, the maximum savings would likely 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 reopened claims, NCCI has provided six scenarios below that illustrate the potential cost impact of these provisions based on a low, medium, and high level of costs associated with reopening of claims.

	LOW	HIGH	LOW	HIGH	LOW	HIGH
	Low Reopening		Medium Reopening		High Reopening	
(1) Impact on Medical Prior to Reopenings	-33.6%	-21.3%	-33.6%	-21.3%	-33.6%	-21.3%
(2) Medical % of Overall Benefits	72.0%		72.0%		72.0%	
(3) Overall Impact Prior to Reopenings	-24.2%	-15.3%	-24.2%	-15.3%	-24.2%	-15.3%
(4) % of Costs for Claims Reopened	25.0%		50.0%		75.0%	
(5) Est Impact on Overall Montana System Costs	-18.2%	-11.5%	-12.1%	-7.7%	-6.1%	-3.8%
(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.

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