

SJR 30 Studies
Claim Closure, Reopening and
Settlements
Report to the LMAC

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Claim Closure, Reopening and
Settlements: Background

- Declaration of Public Policy MCA 39-71-105(1)
“Wage loss benefits are not intended to make an injured worker whole but are intended to assist a worker at a reasonable cost to the employer.”
- Challenge is to find the balance between what is fair to workers and still ensure reasonable costs to employers

Claim Closure, Reopening and Settlements: Public Policy Issues

1. How long should workers compensation claims remain open?
2. Once closed, under what conditions can they be reopened?
3. How long should medical benefits remain open?
4. Under what conditions medical benefits can be re-opened after they have been closed.

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Claim Closure, Reopening and Settlements: Current Practice in MT

- Current statute does not provide for a specific closing action for any benefit other than medical.
- Medical benefits may remain open for up to 60 months from date of last medical treatment.

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Claim Closure, Reopening and Settlements: Current Practice in MT

- Current practice in MT creates a potential lifetime of eligibility for workers compensation benefits making the cost of coverage very unpredictable to price.
- This also creates a progression of “compensable consequences” for conditions that may be a natural progression of aging, and
- Montana’s unique case law which sometimes creates retroactive payments on open cases creates significant exposure to employer and insurer insolvencies without a time limit for claim closure

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Claim Closure, Reopening and Settlements: Current Practice in MT

- Worker advocates believe work related injuries should remain open for as long as the injured worker may suffer any disability or need for medical treatment; and that conditions developed later in life caused in part from a work related injury should remain covered.

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Claim Closure, Reopening and Settlements: Other State Comparison

- Claim Closing: Timeframes when the worker is no longer entitled to additional benefits varies from 1 year from last compensation payment to no limitation; most common is one to three years from date of last payment. (27 states)
- Most common reopening criteria is for a change in medical condition, fraud, or mistake of fact
- 38 states allow the settlement of medical benefits

Source: ALFA Workers' Compensation Law Survey - 2009

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Claim Closure, Reopening and Settlements: Consultant's Recommendations

- Adopt a 2 year from the date of last indemnity or medical payment closing criteria
- Make this conditional on the employer/insurer giving written notice to the employee that further benefits are barred after two years from last payment
- Reopening criteria is the same as current law for settlements
- Allow settlement of future medical benefits with Department approval but only after MMI

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