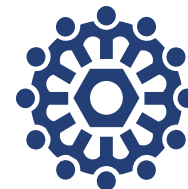


REOPENING OF CLOSED MEDICAL BENEFITS

PRESENTED BY

Workers' Compensation Claims Assistance Bureau

Maralyn Lytle
Jason Swant
Bill wheeler



Montana Department of
LABOR & INDUSTRY

TODAY'S DISCUSSION

Benefits Termination & Petition to Re-open, HB 334

Mechanism to Reopen Benefits – Standard of Proof

Injured Worker & Joint Agreement Petitions

Notifications & Records Submission

Determinations & Two Year Reviews



MONTANA STATUTE AND RULES

39-71-704. Payment of medical, hospital, and related services – fee schedules and hospital rates – fee limitation

(f) (i) The benefits provided for in this section terminate 60 months from the date of injury or diagnosis of an occupational disease. A worker may request reopening of medical benefits that were terminated under this subsection (1)(f) as provided in [39-71-717](#).

Applies to DOI on or after July 1, 2011



Montana Department of
LABOR & INDUSTRY

MONTANA STATUTE AND RULES

39-71-717. Reopening of terminated medical benefits – medical review.

- (1) A petition to reopen medical benefits that terminate under [39-71-704\(1\)\(f\)](#) must be reviewed as provided in this section.
- (2) Medical benefits may be reopened only if the worker's medical condition is a direct result of the compensable injury or occupational disease and requires medical treatment in order to allow the worker to continue to work or return to work.

Applies to DOI on or after July 1, 2011



Reopening of Medical Benefits Closed by Operation of Law

- 24.29.3101 INTRODUCTION - APPLICABILITY - VOLUNTARY PAYMENTS
- 24.29.3103 DEFINITIONS
- 24.29.3107 TIMELINES AND EXPLANATION OF STATUS CLASSIFICATIONS OF A PETITION
- 24.29.3111 PETITION FOR REOPENING
- 24.29.3114 SUBMISSION OF MEDICAL RECORDS AND ADDITIONAL INFORMATION - EFFECT OF FAILURE TO SUBMIT MEDICAL RECORDS OR ADDITIONAL INFORMATION
- 24.29.3117 JOINT PETITION FOR REOPENING
- 24.29.3121 REVIEW BY MEDICAL DIRECTOR - CONSENT OF BOTH PARTIES
- 24.29.3124 REVIEW BY MEDICAL REVIEW PANEL - REPORT AND RECOMMENDATIONS
- 24.29.3127 PERIODIC REVIEW OF CERTAIN REOPENED MEDICAL BENEFITS



24.29.3124 - Corrected Notice of Adoption

24.29.3124 REVIEW BY MEDICAL REVIEW PANEL -

(4) If a panel member concludes that additional medical benefits are necessary, the panel member shall identify the ~~nature and~~ extent of the medical benefits that should be provided. The analysis must include the reasons and rationale that explain:

(a) ~~the nature or type of medical benefits recommended to be furnished, whether identified by specific procedure or by general description;~~

~~(b)~~ the extent of the duration ~~(whether by time or number of treatments)~~ of the benefits expected to be needed; and

~~(c)~~(b) whether and how the recommendations are consistent with the

Panel Member Concludes:

- Leave closed;
- Re-open; and
- If re-open, specific time less than two years or more than two years.



EXCEPTIONS



STANDARD OF PROOF

STANDARD OF PROOF	PERCENTAGE ON THE BALANCE SCALE
Substantial, credible evidence	More than mere speculation or possibility, but less than 51%(20% to 50%)
Preponderance of Evidence	51% reasonable certainty
Clear and convincing	75% reasonable certainty
Beyond a reasonable doubt	99% reasonable certainty



LEGAL

- **PREPONDERANCE OF EVIDENCE**
 - 51%
 - Proof necessary to support reopening of medical benefits



LEGAL

- CLEAR AND CONVINCING EVIDENCE
 - 75%



MECHANISM TO REOPEN CLOSED MEDICAL BENEFITS

39-71-717. Reopening of terminated medical benefits – medical review



MECHANISM TO REOPEN CLOSED MEDICAL BENEFITS

39-71-717. Reopening of terminated medical benefits – medical review

8. OTHER CONDITIONS
Does the applicant suffer from any disease not mentioned above, which is likely to interfere with the sufficient discharge of his or her duties as a driver, or to cause driving by him or her on a vocational licence to be a source of danger to the public?
If YES, please specify

.....
Registered Medical Practitioner

.....
Name

MEASUREMENT FOR REOPENING BENEFITS

- ALLOWS WORKER TO STAY AT WORK
- ALLOWS WORKER TO RETURN TO WORK





Re-opening of Workers' Compensation Closed Medical Benefits

In 2011 sweeping changes were adopted for Montana Workers' Compensation in Montana Code Annotated 39-71-704 including adoption of fee schedules, U&T guidelines, Medical Status Form and the 60 month termination of medical benefits.

39-71-704. Payment of medical, hospital, and related services -- fee schedules and hospital rates -- fee limitation

(f) (i) The benefits provided for in this section terminate 60 months from the date of injury or diagnosis of an occupational disease. A worker may request reopening of medical benefits that were terminated under this subsection (1)(f) as provided in [39-71-717](#).

In addition the statute 39-71-717 allows for the reopening of the terminated medical benefits and has charged the Department of Labor & Industry to develop the process to handle the reopening of the terminated medical benefits.

39-71-717. Reopening of terminated medical benefits -- medical review.

(1) A petition to reopen medical benefits that terminate under [39-71-704\(1\)\(f\)](#) must be reviewed as provided in this section.

Related Links

[Administrative Rules](#)

[Petition to Re-open Closed Medical Benefits](#)

[Joint Agreement and Petition to Re-open Closed Medical Benefits](#)

[Secure Medical Records exchange portal](#)

[Medical Director Review Form](#)

[Physician Panel Member Review form](#)

[Webinar Reopening of Closed Medical Benefits - Adjustors](#)

[Webinar Reopening of Closed Medical Benefits - Physicians](#)



INITIAL RECEIPT OF PETITION

Montana Department of Labor
& Industry Receives Petition



Department Validates
Petition



Insurer Notified by Letter
& Email



PETITION IS FILED



Sun	Mon	Tue	Wed	Thu	Fri
			1	2	3
3	4	5	6	7	8
9	10	11	12	13	14
15	16	17	18	19	20
21	22	23	24	25	26
27	28	29	30	31	

14 days
allowed for
medical
records



NOTIFICATION LETTER

Notify Department Immediately if not an Accepted Claim

- Medical Records Must be Submitted

Choice of Review

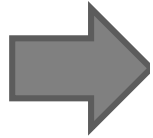
- Medical Director
- Panel

Panel Review by Injured Worker

- Notification Only



NOTIFICATION LETTER #1



Action 1: Submit **within 14 days of the date of this letter** a copy of the medical records contained in the claim file for the above injured worker. Send records to Maximus Federal by fax 585-869-3344 or electronically through a secure portal using this link <http://maxfedxchange.maximus.com>. If you miss this deadline, the review will be completed based on medical information received with the petition.

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

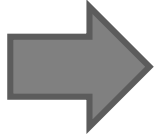
Action 2: The review process may be completed through a panel review or by the Medical Director if both parties concur. The injured worker has requested to have the Medical Director only review the petition. Please indicate your preference below, sign, date and return the letter to the department within **14 days** of the date of this letter.

<input type="checkbox"/> Medical Director Review only	<input type="checkbox"/> Panel Review
Signature:	
Date:	

Action 3: If the claim has not been accepted as a compensable claim, please notify the department immediately.



NOTIFICATION LETTER #2



Action Needed:

1. Submit medical records to Maximus Federal
2. Inform the department immediately if the claim has not been accepted as compensable

The injured worker above has petitioned for the reopening of their workers' compensation medical benefits under 39-71-717, MCA. The reopening of medical benefits may occur only if the worker's medical condition is a direct result of the compensable injury or occupational disease and requires medical treatment in order to allow the injured worker to stay at work or return to work.

Action 1: Submit **within 14 days of the date of this letter** a copy of the medical records contained in the claim file for the above injured worker. Send records to Maximus Federal by fax 585-869-3344 or electronically through a secure portal using this link <http://maxfedexchange.maximus.com>. If you miss this deadline, the review will be completed based on medical information received with the petition.

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

Action 2: If the claim has not been accepted as a compensable claim, please notify the department immediately.



MEDICAL RECORDS



- 14 Days Allowed
- Send to MAXIMUS
 - Electronic
 - Fax
- Send to ERD?
 - Insurer – NO
 - IW/Claimant Attorney - YES

MEDICAL RECORDS

- MAXIMUS
 - maxfedxchange.maximus.com
 - Fax (585) 869-3344



MOVEit XChange

SECURE FILE TRANSFER SYSTEM

The MOVEit XChange Secure File Transfer system is a file transfer system that allows for the secure handling of sensitive information. It allows users to quickly and easily exchange files through a web browser using the HTTP over SSL (https) protocol. In addition, all files received by MOVEit are securely stored using FIPS 140-2 validated AES encryption, the U.S. Federal and Canadian government encryption standard.

MAXIMUS has implemented the MOVEit XChange Secure File Transfer system to provide a fast and secure way to send and receive case information. By using this system to send case files, we can ensure that case files will be received by MAXIMUS Federal as quickly as we can manage. By following the policies outlined below, we can all be assured that PHI will be safeguarded from improper disclosure.



REQUEST A MOVEit/XChange USER ACCOUNT

To receive a MOVEit account, send an email to MontanaWC@maximus.com, indicating you need a MOVEit account to send documents to MAXIMUS. Please include name(s) and email address(es) for the individuals requiring an account.



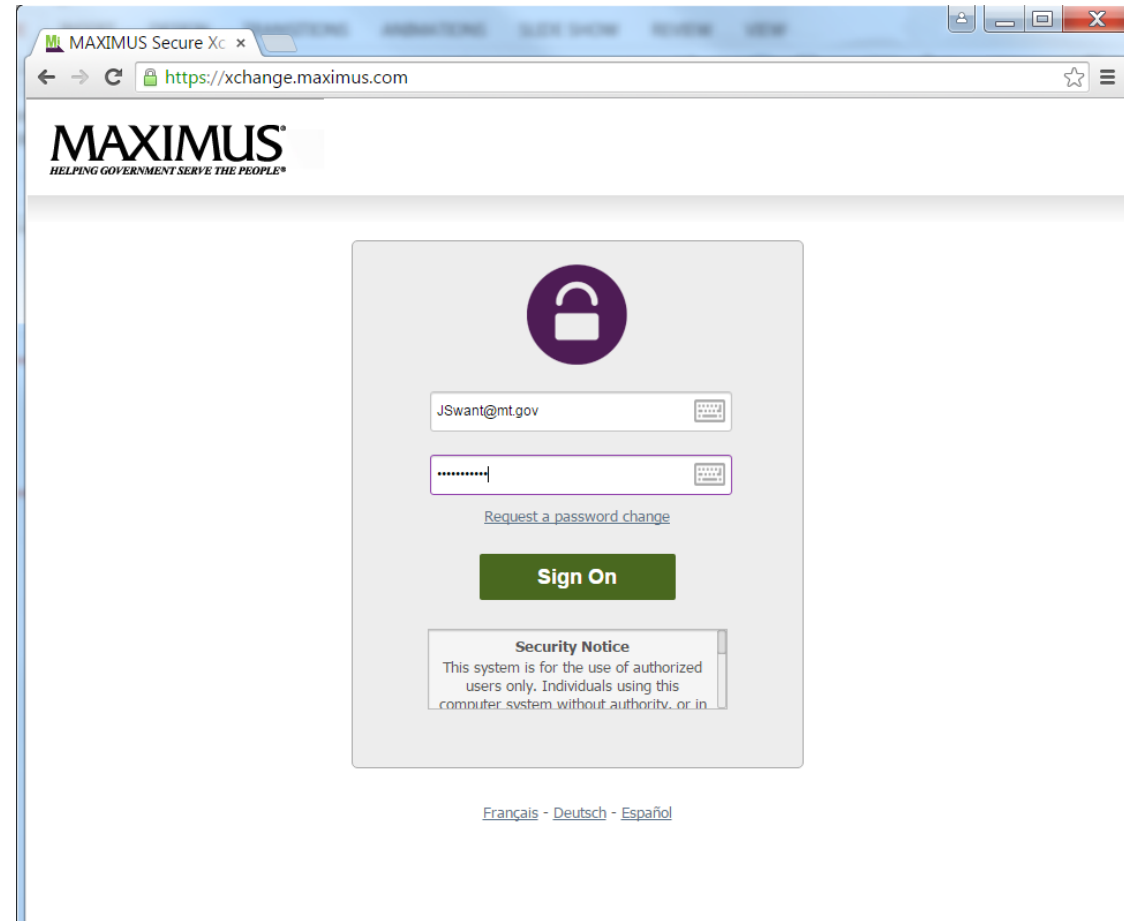
ACCESSING THE MOVEit XChange SYSTEM

You will receive an email when access has been assigned. This email will also provide your username.

Go to:

maxfedxchange.maximus.com

Enter your username, click on Request a password change.



The screenshot shows a web browser window with the address bar displaying <https://xchange.maximus.com>. The page header features the MAXIMUS logo and the tagline "HELPING GOVERNMENT SERVE THE PEOPLE®". The main content area is a login form with a purple padlock icon at the top. Below the icon are two input fields: the first contains the username "JSwant@mt.gov" and the second contains a masked password ".....". A link for "Request a password change" is positioned below the password field. A green "Sign On" button is located below the form. At the bottom of the form, a "Security Notice" box states: "This system is for the use of authorized users only. Individuals using this computer system without authoritv..or.in". At the very bottom of the page, there are language options: "Français - Deutsch - Español".

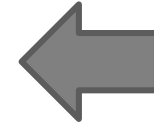


FINAL DETERMINATION

RE: [Name, Claim #, DOI]

You have petitioned for the reopening of workers' compensation medical benefits under 39-71-717, MCA. The reopening of medical benefits may occur only if the worker's medical condition is a direct result of the compensable injury or occupational disease and requires medical treatment in order to allow the injured worker to continue to work or return to work.

The reopening of the medical benefits [has been granted, has not been granted].
Refer to the explanation below. Your medical benefits [will terminate or be reviewed] on [date].



Text Box for Rationale

The report of the department's medical director or the medical review panel is presumed to be correct and may be overcome only by clear and convincing evidence. If you disagree with this recommendation, you may obtain a mediation request form from the Employment Relations Division (ERD) of the Department of Labor and Industry, by calling 406-444-6543 or by writing to PO Box 1728, Helena, MT 59624. Mediation request forms are also available online at <http://erd.dli.mt.gov/work-comp-claims/mediation/petition-for-workers-compensation-mediation>.



FINAL DETERMINATION

Letter Must Be:

- Completed In 60 Days
- Include Medical Findings
- Determination Of Reopening
- Reopening End Date



REOPENED MEDICAL BENEFITS

- Insurer/Injured Worker/Consul
 - Letter sent
- Insurer Will Manage Medical
- If Disagree
 1. Mediation
 2. Workers Compensation Court



TWO YEAR REVIEW NOTIFICATION

RE: [Name, Claim #, DOI]

ACTION NEEDED: Submit the most recent two years of medical records to Maximus Federal by (date +14 days).

The department must review all injured worker petitions whose medical benefits have been extended beyond two years under 39-71-717, MCA. The renewal of medical benefits may occur only if the worker's medical condition is a direct result of the compensable injury or occupational disease and requires medical treatment in order to allow the injured worker to stay at work or return to work.

Action: Submit **within 45 days of the date of this letter** the most recent two years of medical records or more if necessary to support your view regarding the reopening of medical benefits. Send records to Maximus Federal by fax 585-869-3344 or electronically through a secure portal using this link <http://maxfedexchange.maximus.com>. If you miss this deadline, the review will be completed based on medical information received with the petition.

The insurer and/or the injured worker shall submit updated information to the department every two years for medical benefits that were extended for more than two years. The initial review will be completed by the medical director. If the medical director indicates there will be changes to the original determination, a panel review of the proposed changes will be conducted.

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



TWO YEAR REVIEW DETERMINATION

RE: [Name, Claim #, DOI]

The two-year review of your reopened workers' compensation medical benefits under 39-71-717, MCA, has been completed. The continuation of medical benefits may occur only if the worker's medical condition is a direct result of the compensable injury or occupational disease and requires medical treatment in order to allow the injured worker to continue to work or return to work.

The continuation of the medical benefits [has been granted, has not been granted]. Refer to the explanation below. Your medical benefits [will terminate or be reviewed] on [date].

Text Box for Rationale

The report of the department's medical director or the medical review panel is presumed to be correct and may be overcome only by clear and convincing evidence. If you disagree with this recommendation, you may obtain a mediation request form from the Employment Relations Division (ERD) of the Department of Labor and Industry, by calling 406-444-6543 or by writing to PO Box 1728, Helena, MT 59624. Mediation request forms are also available online at <http://erd.dli.mt.gov/work-comp-claims/mediation/petition-for-workers-compensation-mediation>.



QUESTIONS?

Contact:

General Questions

DLIERDReopenWCMedBenefits@mt.gov

Maralyn Lytle mlytle@mt.gov or (406) 444-6604

Jason Swant jswant@mt.gov or (406) 444-1748

Bill Wheeler bwheeler@mt.gov or (406) 444-6541



Montana Department of
LABOR & INDUSTRY