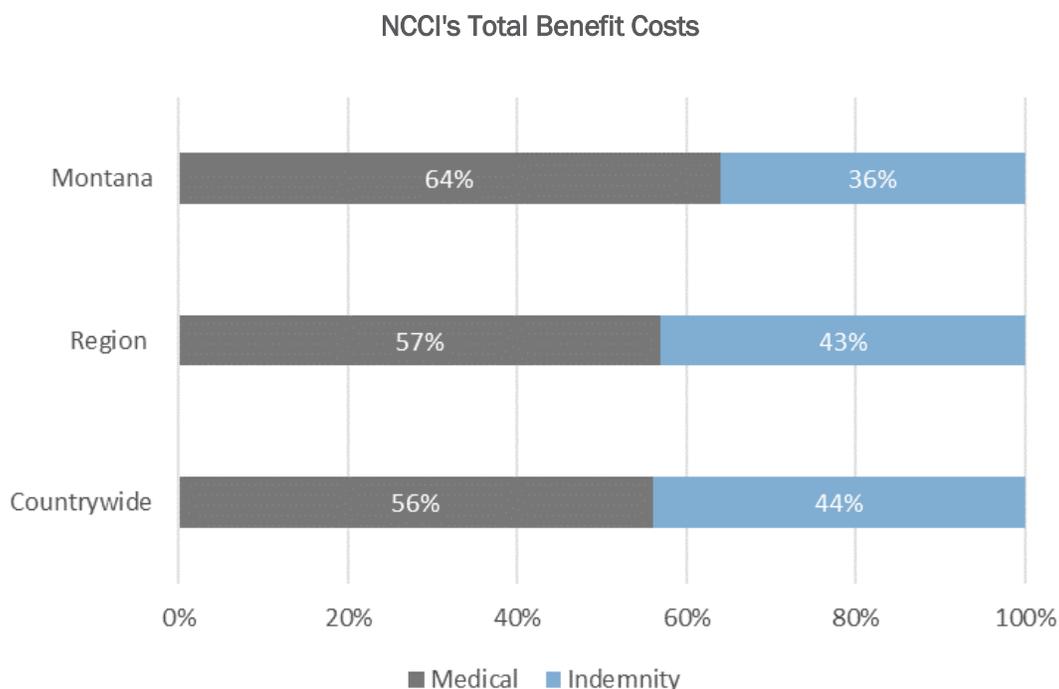


MEDICAL AS A WORK COMP COST DRIVER

2022

In Montana, the medical portion of workers' compensation benefits has consistently been about 64%, and indemnity benefits about 36%. This is higher compared to the national portion for medical at 56% and the region at 57%, according to an annual report from the National Council on Compensation Insurance (NCCI, 2022).



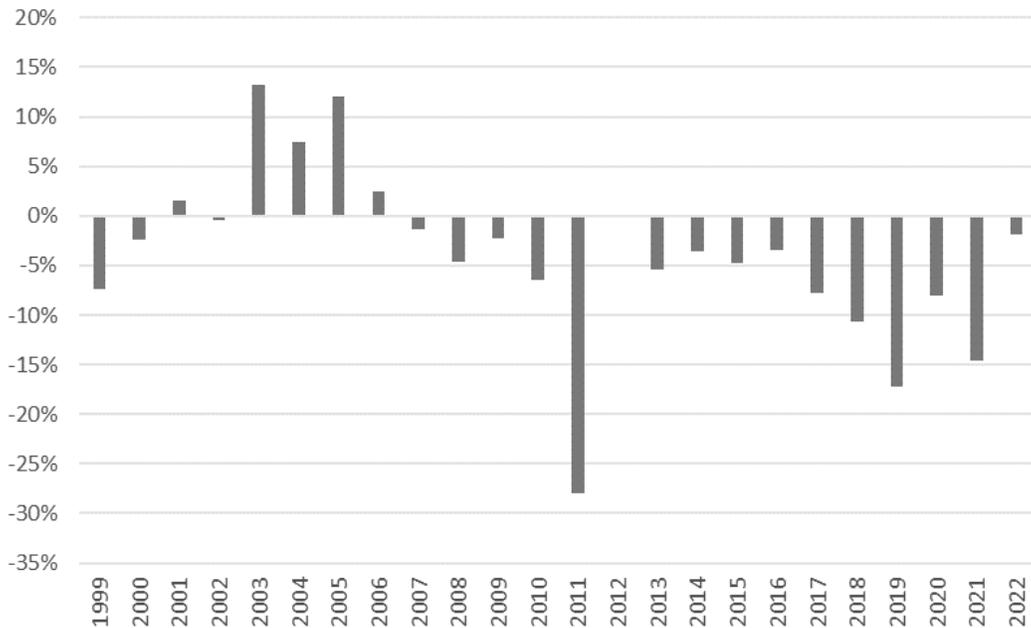
NCCI's Annual State Advisory Forums

Montana has had and continues to have significant discussions on the cost of workers' compensation benefits, including the higher spending on medical, higher work comp premiums, and higher rates of injury, compared to other states. In 2011, the Montana Legislature passed HB 334, a significant workers' compensation system reform, after many meetings and conversations between lawmakers, administrators, and stakeholders.

There were changes to wage-loss benefits, particularly permanent partial disability, but the parts of the bill that impacted medical benefits included adopting the Montana Utilization and Treatment Guidelines, closing medical benefits five years from the date of injury, with an option to petition for an additional two-year reopening, establishing a medical director and a review panel, allowing insurers to designate a treating physician after an initial emergency room visit, adopting the sixth edition of the American Medical Association Guides for determining impairment, and freezing medical fee schedules at the 2010 Medicare rates until 2013. A separate bill in the 2011 session also allowed for the settlement and closure of future medical benefits upon the agreement of all parties.

Some of the changes were projected to increase overall costs to the system, and others to decrease costs. After that legislation, NCCI filed a large loss-cost decrease with the insurance commissioner at -28%. The following ten years have also seen declines in the loss-cost filing, with the most recent being -1.9%. A history of the loss-cost filings for Montana can be found at <https://erd.dli.mt.gov/data-dashboards/premium-plan-payroll> in the second tab at the top, titled *Loss Cost History*, or below.

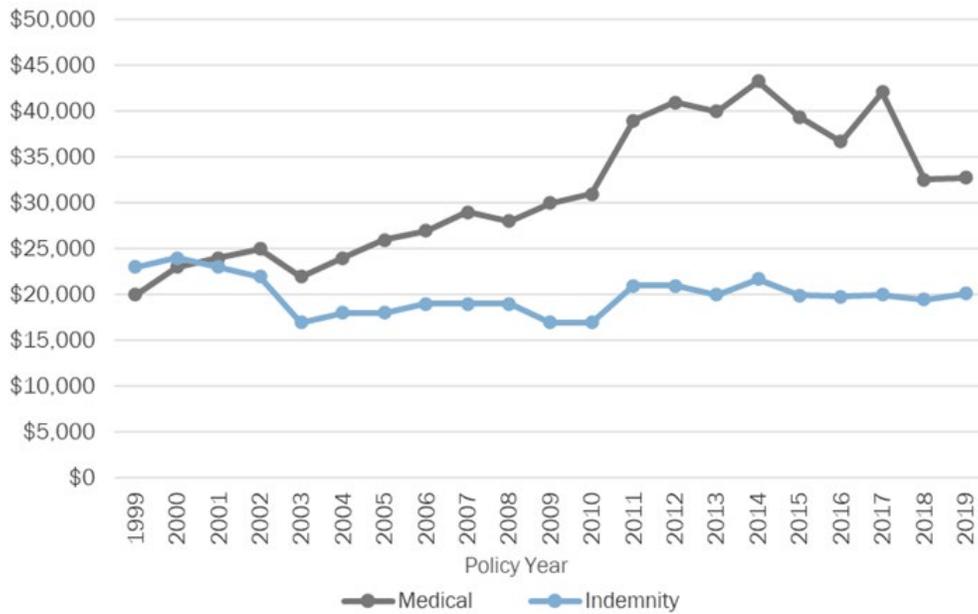
Montana's Voluntary Loss Cost Changes Reported by NCCI



After the reform, there was an expectation of short-term increases in medical costs, but medical would look more favorable in the long term due to the claim closures. Before the legislation, some injured workers were receiving lifetime medical benefits. The Department has been tracking closures of medical benefits due to the settlement of future medical and the five-year petitions to reopen benefits for an additional two years. The settlements closing future medical benefits peaked in the fiscal years 2016 and 2017 and can be seen in the dashboard <https://erd.dli.mt.gov/data-dashboards/work-related-injuries-settlements>. The trends in the future medical settlements track with the trends in total medical paid, and the current direction for medical is decreasing. Hundreds of thousands of claims have closed due to the 5-year closure provision. Less than 1% of eligible claims have petitioned to reopen medical benefits among the average 25,000 claims filed yearly in Montana.

The claim closures will have a long-term impact on workers' compensation medical costs and reserves for insurers, but in the short term, Montana still has higher than average medical costs per lost-time claim compared to other regional states. The current average cost of a lost-time claim in Montana is \$32,800 for medical and \$20,100 for indemnity.

Montana's Average Medical & Indemnity Claim Severity for Lost-Time Claims



NCCI's Financial Data

In May 2017, the Montana legislature allowed for adoption of a workers' compensation drug formulary. After review of NCCI's Opioid supplement, it was determined Montana's portion of total medical payments going towards prescriptions, especially opioids, were a medical cost driver compared to the region and countrywide. The strength, cost, count, and duration of opioid scripts, a good portion for 11 or more years, far exceeded the region and countrywide. The evidence showed extended use of opioid prescription drugs had permanent negative consequences. The adoption provided guidelines to improve outcomes for injured workers. The drug formulary, along with the already established utilization and treatment guidelines, provided injured workers with prompt and appropriate care and to obtain assistance with stay-at-work/return-to-work. It also offered clinicians access to policies in making decisions for specific conditions, and insurers were looking at the same guidelines in making reimbursement determinations.

Montana's workers' compensation medical fee schedules have been at the forefront as a cost containment measure, and something that arose out of the 2010 discussions was a lack of transactional medical data in determining a fair and equitable base rate for hospital services. The department worked with acute care hospitals in Montana to survey the reimbursement for the top procedure codes used in workers' compensation. For several years, this data was used by an internal medical committee to make decisions on base rates and develop a methodology for an annual update. In recent years, the department has relied upon the NCCI Medical Data Report and the Western Medical Price Index changes to arrive at budget-neutral modifications to the fee schedules. Some evidence from the Workers' Compensation Research Institute (WCRI) shows medical fee schedules set too low or too high can have unintended consequences. Montana is in the upper middle half of states for workers' compensation reimbursement rates, at 180% of Medicare.

There has been a long-standing discussion about medical as a cost driver in workers' compensation in Montana. Many improvements have been made since the reform, but options remain to be considered. Some of the changes have taken many years to realize the impact fully, and they are still

working their way through the system. Monitoring previous changes will continue to be ongoing, especially tracking reimbursements and utilization of necessary medical services for injured workers.

The balance is to provide benefits to injured workers at a reasonable cost to the employer while not affecting the quality of treatment or access to care. According to a report by the Montana Department of Public Health and Human Services (DPHHS), Montana is a rural state that may already be impacted by physician shortages. Injured worker or physician surveys could be conducted to gain a better understanding from those directly affected. These surveys could also provide insight into access to care, satisfaction with care, financial impact, recovery of health, and return to work while also looking at the type of injuries and the demographics represented.

In March of 2020, the definition of telemedicine services was expanded for the pandemic to include telephone only and live chat modalities per the governor's executive order. The expansion was also in accordance with Medicare's inclusion of therapy codes that were previously not allowed to be billed for telemedicine. The types of visits were expanded to better serve injured workers and with additional education and outreach to stakeholders, in such a rural state, this could continue to be a real benefit.

The goal in Montana is provide clear and transparent data that helps guide discussions for improving the system and the people involved.

Current monitoring can be found on the department's webpage through dashboards such as the history of the medical fee schedules, <https://erd.dli.mt.gov/data-dashboards/medical-fee-schedule-history> or the medical paid to date reported on Subsequent Reports of Injury (SROIs) located here <https://erd.dli.mt.gov/data-dashboards/medical-paid-date>. Basic workers' compensation claim characteristics can also be found here <https://erd.dli.mt.gov/data-dashboards/work-related-injury> or department administered programs here <https://erd.dli.mt.gov/data-dashboards/other-erd-programs>.

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Employment Standards Division
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The data in this report is as accurate as reported to the Montana Department of Labor & Industry's (DLI) Employment Standards Division (ESD). Counts and totals may change over time due to updated reports and data clean-up efforts. Federal workers' injuries are not represented in this report.

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