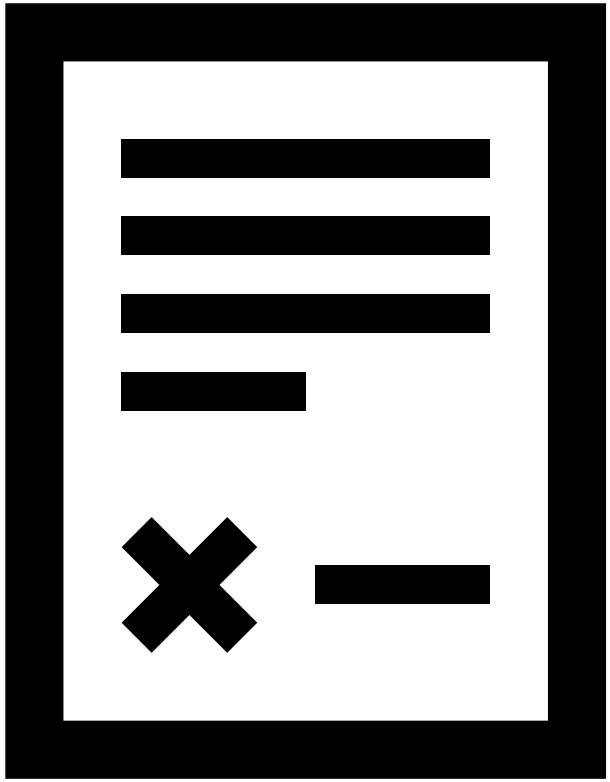
Petition for Settlements and Order Requests Discussion

Presented by

Workers' Compensation Section



Montana Department of
LABOR & INDUSTRY

Please send all Petitions for Settlement and Order Requests to:

dlierdbp&s@mt.gov

This ensures that if any one of us is out of the office for an extended period of time, the petition and/or order will still get reviewed in a timely manner.

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Disputed Initial Compensability

39-71-741 (2) (a) all benefits if a claimant and an insurer dispute the initial compensability of an injury and there is a reasonable dispute over compensability

- Completed signed Petition
- Copy of Denial Notice or cover letter and/or email describing the dispute between the parties. Placing the claim under 39-71-608 or 39-71-615 is not sufficient. We need to know the reason the claim was denied or have an explanation of the dispute between the parties.

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Medical Reserved on an Accepted Claim

39-71-741 (2) (b) permanent partial disability benefits if an insurer has accepted initial liability for an injury. The total of any lump-sum payment in part that is awarded to a claimant prior to the claimant's final award may not exceed the anticipated award under 39-71-703. The department may disapprove an agreement under this subsection (2)(b) only if the department determines that the lump-sum payment amount is inadequate.

- Completed signed Petition
- Depending on the date of injury, the petition must contain language regarding when medical benefits will terminate and the re-opening process.
- Completed Recap Sheet specifically, if the settlement includes 703 percentages in the PPD categories. If the settlement is a negotiated agreement and does not include PPD Benefits, indicate the status of RTW/Release to Work.

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Medical Closed on an Accepted Claim Disputed Medical

39-71-741 (2) (e) medical benefits on an accepted claim if an insurer disputes the insurer's continued liability for medical benefits and there is a reasonable dispute over the medical treatment or medical compensability;

- Completed signed Petition.
- Completed Recap Sheet specifically if the settlement includes 703 percentages in the PPD categories. If the settlement is a negotiated agreement and does not include PPD Benefits, indicate the status of RTW/Release to Work.
- Cover Letter, language on the Petition describing the dispute resulting in closure of medical benefits, or a copy of a letter to the claimant advising the denial of further medical benefits.
- The Petition needs to include language: *I understand and acknowledge this settlement will end all workers' compensation coverage for medical care for the claim(s) included above and my medical benefits will terminate. I further understand this settlement of medical benefits may or may not result in secondary payers, such as Medicare, Medicaid, or health insurers, denying coverage for medical expenses for the condition(s) related to the claims included above.*

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Medical Closed on an Accepted Claim Best Interest Medical Settlement

39-71-741 (2) (f) medical benefits on an accepted claim if the claimant has reached maximum medical improvement and the following applicable conditions are met:
(i) the insurer and claimant mutually agree to a settlement of all or a portion of medical benefits; and (ii) a settlement is in the best interest of the parties to the settlement.
(3) The parties to a medical settlement agreement shall set out the rationale that is the basis for the settlement under subsection (2) (f), and the claimant shall indicate by a signed acknowledgment an understanding of what medical benefits will terminate because of the settlement.

- Completed signed Petition
- Completed Recap Sheet specifically if the settlement includes 703 percentages in the PPD categories. If the settlement is a negotiated agreement and does not include PPD Benefits, indicate the status of RTW/Release to Work.
- Completed Summary of Settlement of Medical Benefits Sheet. Include MMI medical records.
- The petition needs to include language: *I understand and acknowledge this settlement will end all workers' compensation coverage for medical care for the claim(s) included above and medical benefits will terminate. I further understand this settlement of medical benefits may or may not result in secondary payers, such as Medicare, Medicaid, or health insurers, denying coverage for medical expense for condition(s) related to the claims included above.*

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Petition for Settlement Permanent Total Disability Medical Reserved on an Accepted Claim

39-71-741 (2) (c) permanent total disability benefits if the total of all lump-sum payments in part that are awarded to a claimant do not exceed $20,000. The approval or award of a lump-sum permanent total disability payment in whole or in part by the department or court is the exception. It may be given only if the worker has demonstrated financial need that: (i) relates to: (A) the necessities of life; (B) an accumulation of debt incurred prior to the injury; or (C a self-employment venture that is considered feasible under criteria set forth by the department; or (ii) arises subsequent to the date of injury or arises because of reduced income as a result of the injury.

- Completed signed Petition
- Petition will not contain Medical Benefit Re-opening language
- Financial documentation justifying PTD Benefits in a lump sum versus to biweekly payments. Refer to ARM 24.29.1202

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Petition for Settlement Permanent Total Disability Medical Closed on an Accepted Claim Best Interest Medical Settlement

39-71-741 (2) (c) permanent total disability benefits if the total of all lump-sum payments in part that are awarded to a claimant do not exceed $20,000. The approval or award of a lump-sum permanent total disability payment in whole or in part by the department or court is the exception. It may be given only if the worker has demonstrated financial need that: (i) relates to: (A) the necessities of life; (B) an accumulation of debt incurred prior to the injury; or (C a self-employment venture that is considered feasible under criteria set forth by the department; or (ii) arises subsequent to the date of injury or arises because of reduced income as a result of the injury.

- Completed signed Petition
- Completed Summary of Settlement of Medical Benefits form, include MMI Medical Records.
- Financial Documentation justifying PTD Benefits in a lump sum as opposed to biweekly payments. Refer to ARM 24.29.1202
- The petition needs to include language: *I understand and acknowledge this settlement will end all workers' compensation coverage for medical care for the claim(s) included above and medical benefits will terminate. I further understand this settlement of medical benefits may or may not result in secondary payers, such as Medicare, Medicaid, or health insurers, denying coverage for medical expense for condition(s) related to the claims included above.*

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Other

39-71-741 (2) (d) except as otherwise provided in this chapter, all other settlements and lump-sum payments agreed to by a claimant and insurer;

Often times, issues are settled reserving indemnity and medical benefits. Examples would be settlement of disputed TTD benefits, Parts of Body, Home Modifications, etc., yet the claim remains active with all other benefits reserved. Use a Petition for Settlement Medical Benefits Reserved on An Accepted Claim. Include language outlining what is being settled and what benefits are reserved.

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Common Issues

- Petition, Recap Sheet, Summary of Settlement of Medical Benefits Form lack signature(s) and/or signatures are not dated
- Incorrect information on the petition documents, I.E. Employer Name, Date of Injury(s), Claim Number(s).
- Numeric dollar amount differs from alpha numerical amount
- Best Interest Settlement of Medical Benefits with medical records not included, I.E. MMI, IR
- No indication on the Recap Sheet regarding the status of MMI and/or RTW/Release to Work
- Per Instruction for the WCC, when settling multiple claims, include language allocating a dollar amount to each claim or a statement the settlement amount encompasses all claims.

Electronic Signatures

- Per ARM 24.29.221, the department accepts signatures as an electronic scan or photocopy of a manual signature for documents transmitted to the department by fax or attached to electronic mail, Zix, or FileTransfer Service
- A signature properly authenticated and verified by an electronic signature for which appropriate auditable records are available
- Not accepted are Fill and Sign Signatures or signatures that cannot be authenticated
- Copies of wet signatures are allowed. Please use blue or black ink.

Orders

- File Copy (MCA 39-71-107 (1) & (3): Please allow the examiner 30 days to produce the file prior to making a request. Once you do submit your request, please include your original request to the examiner.
- Examination of Employee by physician (MCA 39-71-605): Please include the 605 Questionnaire.
- Reinstatement of Benefits (MCA 39-71-610): Please address the four criteria established in MT Healthnetwork v. Graham [12502]2002 MT WCC 61.

QUESTIONS

- Mike Bartow: (406) 444-6535 and/or mbartow@mt.gov
- Lindi Mandy: (406) 444-6537 and/or lmandy@mt.gov
- Nick Turnage: (406) 444-1523 and/or Nick.Turnage@mt.gov

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