

# Petition to Reopen Medical Benefits

**PRESENTED BY**  
**Celeste Ackerman**



Montana Department of  
**LABOR & INDUSTRY**

# 5 Year Closure

MCA 39-71-704

Benefits terminate 60 months from the date of injury or diagnosis of an occupational disease.

Exceptions:

- Claim closed by settlement or court order
- Permanent total disability
- Those with prosthesis

# Reopening of Medical Benefits

MCA 39-71-717

Petition to reopen must be filed with the department within 5 years of the termination of medical benefits. The petition cannot be filed more than 90 days before benefits are to terminate


Department will request medical records from the insurer. The worker or insurer can submit additional information that may be relevant to the reopening of medical benefits

# Regular Petition Form

<https://erd.dli.mt.gov/docs/work-comp-claims/medical-regs/petition-form.pdf>

## Purpose of Reopening

- To allow the injured worker to stay at work or return to work
- Obtain necessary information for the Department to review and make a decision

 Montana Department of LABOR & INDUSTRY		DATE STAMP Per Department Use Only
<b>Petition To Reopen Closed Medical Benefits</b>		
Please see instructions on page 2.		
1. Injured Worker's Name: <input type="text"/>		
Address: <input type="text"/>		Phone: <input type="text"/>
<input type="text"/>		Email (optional): <input type="text"/>
		Date of Birth: <input type="text"/>
2. Your Worker's Compensation Claim Number: (optional) <input type="text"/>		
Date of Injury: <input type="text"/>		Body Part: <input type="text"/>
3. Attorney's Name: (if applicable) <input type="text"/>		
Address: <input type="text"/>		Phone: <input type="text"/>
<input type="text"/>		Email (optional): <input type="text"/>
4. Preferred review process: <input type="radio"/> Medical Director only <input type="radio"/> Panel Review (including medical director)	5. What is your current work status? <input type="radio"/> Working at my time of injury job <input type="radio"/> Working at modified or different job <input type="radio"/> Not Working	6. Has there been a settlement approved for medical benefits? <input type="radio"/> Yes <input type="radio"/> No
7. Describe how the reopening of medical benefits will keep you at work or return you to work. Attach additional pages and supporting medical documents as needed. <input type="text"/>		
By signing below, I authorize the release of all of my health care information in the possession of the insurer or a medical provider, whether generated by the health care provider or any other source, to the Montana Department of Labor and Industry (DLI) and/or its agents for the purpose of evaluating my petition for reopening of workers' compensation medical benefits pursuant to § 39-71-717, Mont. Code Ann. This release is subject to my revocation at any time. This release is effective only as long as I am claiming workers' compensation medical benefits.		
Injured Worker's Signature: <input type="text"/>		
Date: <input type="text"/>		

Petition to Reopen Medical Benefits 2/2016




Montana Department of  
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# Joint Petition

<https://erd.dli.mt.gov/docs/work-comp-claims/medical-regs/joint-petition1.pdf>

Facilitates a fast and easy way to reopen medical benefits that both parties agree to in order and will help the injured worker stay at work or return to work

No review by the Department is needed

 Montana Department of LABOR & INDUSTRY		DATE STAMP For Department Use Only
<b>Joint Agreement and Petition To Reopen Closed Medical Benefits</b>		
<b>1. Injured Worker's Name:</b> <input type="text"/> Date of Birth: <input type="text"/> Address: <input type="text"/> Phone: <input type="text"/> Email (optional): <input type="text"/>		<b>2. What is your current work status?</b> <input type="radio"/> Working at my time of injury job <input type="radio"/> Working at modified or different job <input type="radio"/> Not Working
<b>3. Insurer:</b> <input type="text"/> Contact: <input type="text"/> Address: <input type="text"/> Phone: <input type="text"/> Email (optional): <input type="text"/>		<b>4. MT Agency Claim Number: (optional)</b> <input type="text"/> Date of Injury: <input type="text"/> Body Part: <input type="text"/>
<b>5. Has there been a settlement approved for medical benefits?</b> <input type="radio"/> Yes <input type="radio"/> No		<b>6. Is this an accepted claim?</b> <input type="radio"/> Yes <input type="radio"/> No
<b>7. Describe how the reopening of medical benefits will keep you at work or return you to work.</b> Attach additional pages and supporting medical documents as needed. <input type="text"/>		
<b>The injured worker may send appropriate medical records or letters to support their position. Insurers are to send the medical records directly to Maximus.</b>		
<small>The injured worker and the insurer jointly petition the Montana Department of Labor &amp; Industry to reopen the medical benefits in the workers' compensation or occupational disease claim identified as the MT Agency Claim Number above.</small>		
<small>The injured worker and the insurer each agree to the reopening of medical benefits as needed for the injured worker to: (a) stay at work; (b) return to work; or (c) reach maximum medical improvement following surgery or other recommended treatment. The need for continuing medical benefits will be reviewed every two years by the Department's Medical Director.</small>		
<small>The injured worker and the insurer each agree that the reopening of medical benefits being requested in this petition are necessary and appropriate, and will allow the worker to return to work or continue to work.</small>		
<small>The injured worker and the insurer each agree that this Joint Petition will be reviewed solely by the Department of Labor and Industry's Medical Director and will not be reviewed by a three-physician panel.</small>		
<small>The injured worker, by signing below, authorizes the release of all health care information in the possession of the insurer or a medical provider, whether generated by the health care provider or any other source, to the Montana Department of Labor &amp; Industry (DLI) and/or its agents for the purpose of evaluating the petition for reopening of workers' compensation medical benefits pursuant to § 39-71-717, Mont. Code Ann. This release is subject to revocation at any time by the injured worker. The release is effective only as long as the injured worker is claiming workers' compensation medical benefits.</small>		
<b>Injured Worker's Signature:</b> Date: <input type="text"/>		<b>Insurer's Signature:</b> Date: <input type="text"/>
Medical Benefits Reopened		Medical Benefits Will Be Reviewed
<b>Reviewed by the Medical Director</b>		
<b>Medical Director's Signature:</b> Date: <input type="text"/>		



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# REQUEST FOR MEDICAL LETTERS

## Medical Director Only

**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 916-364-2001 or electronically through a secure portal using this link <http://edi.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 checked="" type="checkbox"/> Medical Director Review only	<input type="checkbox"/> Panel Review (including the medical director)	<input type="checkbox"/> Injured worker has reached MMI <input type="checkbox"/> Yes <input type="checkbox"/> No
Signature:		
Date:		

**Action 3:** Indicate if injured worker has reached MMI.

If you have further questions, please contact the Employment Relations Division at 406-444-6543.

## Panel Review

**Action 1:** Please 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 916-364-2001 or electronically through a secure portal using this link <http://edi.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:** Indicate if injured worker has reached MMI.

Injured worker has reached MMI <input type="checkbox"/> Yes <input type="checkbox"/> No
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If you have further questions, please contact the Employment Relations Division at 406-444-6543.



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# Review of Petition

Review of petition will be conducted by a medical review panel, or solely by the department's medical director, as requested by the worker and the insurer.



# Final Decision

A decision will be made within 60 days of submission of the petition. The medical director will then issue a report. The report will provide the rationale for the decision. A report issued by medical review panel must be supported by a majority of the panel members.

If the decision made is to reopen the claim, the claim will remain open for a period of two years unless otherwise specified.

To keep the claim open, the petitioner and insurer will submit information every two years unless otherwise recommended by the medical review panel.



# SUBSEQUENT REVIEWS

24-29-3217

(1) The department's medical director shall biennially review claims where medical benefits have been reopened in order to determine whether the previous recommendations should be changed. (2) The department shall request the worker and the insurer deliver to the department claim records created since the prior medical review. The department's request shall specify a deadline by which claim records must be received by the department. (3) The biennial review will be based on the claim records previously submitted and the records sent pursuant to (2). If a party does not timely send updated claim records, the medical director shall base the review on the materials available

# APPEAL PROCESS

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 Standards Division (ESD) of the Department of Labor and Industry, by calling 406-444-6534 or by writing to PO Box 8011, Helena MT 59604-8011. Mediation request forms are also available at <http://erd.dli.mt.gov/work-comp-claims/mediation/petition-for-workers-compensation-mediation>



# COMMON MISCONCEPTIONS

- **PROSTHETICS:**
  - Misconception: *"I don't need to submit medical for a prosthetic because it is not subject to the reopening process"*
  - **FACT:** Even though 24.29.3101(2) states the reopening process does not apply to claims with the following circumstances *"the fitting of a prosthetic which may need to be replaced or replaced,"* medical records are still needed for our medical director review
- **LETTERS FOR THE FILE:**
  - Misconception: *"DLI told us not to send in letters regarding petitions to Maximus"*
  - **FACT:** ESD has not and would never require insurers to send in only certain documents related to the claim. All documents to be considered for the reopening **MUST** be sent to Maximus within the 14-day window
- **MAXIMUS MAKES FINAL DETERMINATION:**
  - Misconception: *"Maximus doesn't take insurer documents into consideration and approves everything"*
  - **FACT:** Maximus **DOES NOT** make any decisions regarding reopening **OR** closing a petition
    - Their only job is to collect and index documents and coordinate with doctors for panel reviews
    - All reopening decisions are made by our medical director or the medical panel, depending on the review process
- **SUBSEQUENT REVIEWS:**
  - Misconception: *"Is the IW still working?" "Has the injured worker retired?"*
  - **FACT:** ESD does **NOT** determine if the IW is still working, if the IW has left their TOI employer, has retired, etc
    - The Dept feels the IW and examiner have a unique relationship and has been working with the IW
    - We are required by 24.29.3127(1) to biennially review claims where medical benefits have been reopened
    - Our only function is to contact both parties and request documents for the review process



# QUESTIONS?



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# Contact Information

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