REOPENING OF CLOSED MEDICAL BENEFITS

PRESENTED BY
Workers’ Compensation Claims Assistance Bureau
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
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.

(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 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) 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

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<tr>
<th>STANDARD OF PROOF</th>
<th>PERCENTAGE ON THE BALANCE SCALE</th>
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<tr>
<td>Substantial, credible evidence</td>
<td>More than mere speculation or possibility, but less than 51%(20% to 50%)</td>
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<tr>
<td>Preponderance of Evidence</td>
<td>51% reasonable certainty</td>
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<tr>
<td>Clear and convincing</td>
<td>75% reasonable certainty</td>
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<tr>
<td>Beyond a reasonable doubt</td>
<td>99% reasonable certainty</td>
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• **PREPONDERANCE OF EVIDENCE**
  • 51%
  • Proof necessary to support reopening of medical benefits
LEGAL

- CLEAR AND CONVINCING EVIDENCE
- 75%
39-71-717. Reopening of terminated medical benefits – medical review
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.


(1) A petition to reopen medical benefits that terminate under 39-71-704(1)(f) must be reviewed as provided in this section.
INITIAL RECEIPT OF PETITION

Montana Department of Labor & Industry Receives Petition

Department Validates Petition

Insurer Notified by Letter & Email
PETITION IS FILED

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://maxfedexchange.maximus.com](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:** 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.

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<tr>
<td><strong>box</strong> Medical Director Review only</td>
<td><strong>box</strong> Panel Review</td>
</tr>
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</table>

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://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: 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
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.
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.
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://maxfexchange=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://erdl.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