

# 2007 MONTANA LEGISLATIVE SUMMARY

Several bills relating to workers' compensation were introduced during the 2007 Montana Legislature. The bills passed into law are summarized below.

## House Bills

### **HOUSE BILL 65** - *Effective July 1, 2007*

Subject: General Workers' Compensation

Principle Effects of the Legislation:

- Clarifies Department of Labor and Industry (DOL) authority to enter onto construction sites for the purpose of enforcing workers' compensation laws (New section of Title 39, chapter 71, MCA);
- Provides that under specified conditions certain information regarding Subsequent Injury Fund (SIF) certification may be released to a workers' compensation insurer; prohibits insurers from including SIF reimbursed costs as part of the calculation used in an employer's experience modification factor; increases the threshold for deferral of SIF assessments (39-71-225, 39-71-907 and 39-71-915, MCA);
- Limits Uninsured Employers' Fund (UEF) medical payments to \$100,000 per claim; establishes that the injured employee is not liable to any third-party provider that is not reimbursed by the UEF; establishes the third-party provider's right to bring an action directly against the uninsured employer for amounts not paid by the UEF (39-71-503, 39-71-508, and 39-71-510, MCA).

### **HOUSE BILL 72** - *Effective July 1, 2007*

Subject: Professional Employer Organizations and Groups Licensing

Principle Effects of the Legislation:

- Improves the Department of Labor and Industry's (DOL) ability to license Professional Employer Organizations (PEO) by granting authority to conduct a background check through the Montana Department of Justice (DOJ) and the FBI (39-8-202, MCA);
- Allows the DOL to waive these requirements if the PEO provides an affidavit from a bonded, independent, and qualified assurance organization, approved by the DOL, certifying the qualification of a PEO or group seeking licensure (39-8-207, MCA).

**HOUSE BILL 738 - Effective July 1, 2007 (except when otherwise indicated)**

Subject: Medical Fee Schedules and Utilization and Treatment Guidelines

Principle Effects of the Legislation:

- Clarifies that occupational disease medical benefits also terminate if not used for a period of 60 months (39-71-704, MCA);
- Establishes an interim medical fee schedule (39-71-704, MCA);
- Authorizes the Department of Labor and Industry (DOL) to establish the medical fee schedule at no greater than 10% above the RBRVS reimbursement rates paid by disability insurers within Montana (39-71-704, MCA) - *Effective January 1, 2008*;
- Authorizes the DOL to establish medical billing coding standards (39-71-704, MCA) - *Effective January 1, 2008*;
- Authorizes the DOL to establish both evidence-based utilization and treatment guidelines for primary and secondary medical services and an independent medical review process for services denied under this provision (39-71-704, MCA);
- Establishes that neither the workers' compensation insurer nor the injured worker is liable for treatment of services that do not fall within the utilization and treatment guidelines, unless the provider obtained prior authorization from the insurer (39-71-704, MCA).

**HOUSE BILL 785 - Effective April 26, 2007**

Subject: Exemptions to Mandatory Coverage Requirements

Principle Effects of the Legislation:

- Exempts from mandatory workers' compensation coverage athletes employed by or on a team or sports club engaged in contact sports (39-71-401, MCA).

**HOUSE BILL 786 - Effective July 1, 2007**

Subject: Exemptions to Mandatory Coverage Requirements

Principle Effects of the Legislation:

- Exempts from mandatory workers' compensation persons performing the services of an intrastate or interstate common or contract motor carrier if hired by a broker as defined in 49 U.S.C. 13102 (39-71-401, MCA).

## Senate Bills

### **SENATE BILL 97** - *Effective March 16, 2007*

Subject: Highway Patrol Indemnity Benefit Payments

Principle Effects of the Legislation:

- Provides that the workers' compensation indemnity benefit is to be paid by the insurer directly to the Department of Justice (DOJ), rather than to the Highway Patrol member, in order to offset the payment of the regular salary benefit. Previous legislation established that Highway Patrol members injured in performance of their duties will receive the full amount of the member's regular salary from the DOJ (39-71-742, 39-71-743, and 44-1-511, MCA):

### **SENATE BILL 108** - *Effective July 1, 2007*

Subject: General Workers' Compensation

Principle Effects of the Legislation:

- Requires an insurer to give the Department of Labor and Industry (DOL) 14-day advance notice of changes in third party agents and provides a penalty for failure to do so (39-71-107, MCA);
- Clarifies the dispute resolution and appeal process for independent contractor issues (39-71-415, 39-71-417, and 39-71-418, MCA);
- Establishes an interim medical fee schedule (see HB 738) (39-71-704, MCA);
- Authorizes the DOL to establish both evidence-based utilization and treatment guidelines for primary and secondary medical services and an independent medical review process for services denied under this provision (39-71-704, MCA);
- Requires mediation for disputes over the amount reimbursed to a medical provider, prior to a hearing before the DOL (39-71-704, MCA);
- Authorizes the DOL to establish fee schedules for prescription drugs (39-71-727, MCA);
- Clarifies payment rates for domiciliary care provided by a family member (39-71-1107, MCA);
- Requires the insurers' security deposits be paid to the DOL within 30 days of the DOL's demand (39-71-2106, MCA);

- Clarifies that a captive reciprocal insurer is a Plan 2 insurer (39-71-2201, MCA);
- Allows the DOL to fine insurers who fail to timely report issuance and cancellation of Montana workers' compensation policies (39-71-2204, 39-71-2205, and 39-71-2337, MCA);
- Defines an impaired workers' compensation insurer, and requires an impaired workers' compensation insurer to furnish DOL with a claim summary on each claim for which the insurer may have future liability (New section of Title 39, Chapter 71, MCA);
- Requires Plan 2 insurers to post a security deposit between \$25,000 and \$250,000 for use by the DOL to pay claims in the event an impaired insurer ceases payment of Montana workers' compensation claims (New section of Title 39, Chapter 71, MCA).

**SENATE BILL 214** - *Effective July 1, 2007*

Subject: Independent Contractor Laws

Principle Effects of the Legislation:

- Allows a corporate officer and a manager of a manager-managed LLC to apply for an independent contractor exemption; clarifies that a corporate officer or a manager of a manager-managed LLC who obtains an independent contractor exemption certificate is not considered an independent contractor under the unemployment insurance act (39-51-204 and 39-71-417, MCA).

**SENATE BILL 444** - *Effective October 1, 2007*

Subject: Treating Physician Definition regarding Advance Practice Registered Nurses

Principle Effects of the Legislation:

- Allows an advance practice registered nurse (APRN) to meet the definition of a "treating physician" regardless of whether or not a licensed physician is available within the area in which the APRN is located (39-71-116, MCA).