Workers Compensation Benefit Overview – Montana

Major Developments: Last major legislation in 2004 (SB899), affected indemnity rates, disability rating, medical treatment, medical-legal disputes, penalties, and apportionment. 2007 legislation affects caps on TD and post-surgical treatments.

Indemnity Issues

Temporary Total Benefits	**The minimum is 66 2/3% of employee's average weekly wage. The maximum is established annually by the state each July 1st. Current rate is $604.00**. The waiting period is 32 hours or 4 scheduled work shifts. There is no retro period. The benefit period is no limited. Section 39-71-701 MCA
Temporary Partial Benefits	There is no minimum and the maximum is the TTD rate. There is no waiting period. The period of eligibility is limited to 26 weeks prior to MMI. Section 39-71-712 MCA
Permanent Total Benefits	PTD benefits paid until retirement age (SSA retirement age) is reached. There is an annual cost of living adjustment after 104 weeks of PTD is paid. Section 39-71-702 MCA
Fatality Benefits	Spouse receives 500 weeks of TTD benefits. If spouse remarries then benefits end. If no spouse, surviving parents receive $3,000.00. Section 39-71-721 MCA
Vocational Rehabilitation	If impairment is 15% or greater, the injured worker is entitled to formal retraining. If impairment is less than 15% then wage loss must be established to make worker eligible for voc rehab Benefits depend upon the amount of wage loss and could include job placement assistance (can be paid in a lump sum to worker) or formal retraining for up to 104 weeks including bi-weekly TTD, tuition, fees and books Section 39-71-1006 Plan must be started within 78 weeks of MMI.
Settlement Allowed	A Petition for Settlement can be negotiated to resolve existing/future indemnity benefits. PTD lump sums are not generally approved by the Department of Labor unless there is a dispute to entitlement to PTD. Section 39-71-741 MCA
Cap on benefits, exceptions	None beyond what is listed in above.

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Medical Issues

Initial Choice of Provider	Injured worker. Section 39-71-1101 MCA
Change of Provider	The injured worker must have the insurer's permission to change treating physician.
Medical Fee Schedule	Yes - Established annually by Department of Labor
Managed Care	No
Utilization Review	No
Treatment Guidelines	No
Medical Mileage Reimbursement Rate	**2009- $0.550/mile (01/06/09)**
Ability to Terminate Medical Treatment	Yes for non-compliance. Section 39-71-1106 MCA
Settlement Allowed	Settlement of medical benefits in a lump sum is allowed only if there is dispute for liability of medical benefits.
Cap on benefits, exceptions	5 years or 60 months unless the worker continues to treat with the potential for lifetime medical benefits. Section 39-71-704 MCA

Other Issues

Staff Counsel	Staff counsel is not present in Montana.
Hearings require attorney or claim handler participation	Hearings before Work Comp Court require attorney representation. Mediations (non-binding) held with Department of Labor do not require attorney representation.
Occupational Diseases	There is no apportionment amongst carriers who contribute to an occupational disease.
Second Injury Fund availability	Yes it is called Subsequent Injury Fund
Other Offset Opportunities	Social Security Disability

State workers compensation website link: Department of Labor and Industry:
http://erd.dli.mt.gov

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Montana Workers' Compensation Court
http://wcc.dli.state.mt.us

State Law Library with link to Montana Code Annotated (MCA)
http://courts.mt.gov/library

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