



# Workers Compensation Claim State Environmental Guide - Montana

MONTANA – <http://erd.dli.mt.gov/employers>

## 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. 7/1/2015-6/30/2016 rate is \$733.00. The waiting period is 32 hours or 4 scheduled work shifts. For claims after 07/01/11 waiting period is retro-active after 21 days of disability. Can be waived if paid sick leave. The benefit period is not limited. Section 39-71-701 MCA. There is an offset for ½ of any SSDI benefits paid on account of the injury.
Temporary Partial Benefits	There is no minimum and the maximum is the TTD rate. There is no waiting period. The average weekly wage for TPD purposes is capped at 40 hours per week. Section 39-71-712 MCA There is no limit on the number of weeks.
Permanent Partial Benefits	2016 rate \$366.50. PPD based on 400 weeks. See Section 39-71-703 MCA. a. Injured workers with a Class 1 (mild) impairment without an actual wage loss are not entitled to receive payment for the impairment rating; a Class 2 or greater impairment is payable regardless of wage loss..b. Injured workers with a Class 1 or greater impairment rating and an actual wage loss are eligible to receive permanent partial disability (PPD) benefits. c. Designates use of the 6th Edition of Guide to Impairments retroactively to 01/01/08. d. The number of weeks used to calculate the PPD benefits is 400.
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. There is an offset for ½ of any SSDI benefits paid on account of the injury.
Fatality Benefits	Beneficiary receives 500 weeks of benefits at either the TTD rate or \$366.50, whichever is higher, but not to exceed the employee's average weekly wage. If spouse remarries then benefits to the spouse end. If no spouse or other beneficiary, 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 regardless of a wage loss, if the retraining will result in an increase over the time of injury wage. If impairment is less than 15% then wage loss must be established to make worker eligible for voc rehab. A certified rehabilitation counselor must certify a formal rehabilitation plan. Benefits could include job placement assistance or formal retraining for up to 104 weeks including bi-weekly TTD, tuition, fees and books, and auxiliary benefits Section 39-71-1006. Plan must be started within 78 weeks of MMI.



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**Montana Workers Compensation Claim State Environmental Guide**

Settlement Allowed	A Petition for Settlement can be negotiated to resolve existing/future indemnity and medical benefits.
Cap on benefits, exceptions	None beyond what is listed in above.
Payment of benefits under a reservation of rights	Section 39-71-608 allows an insurer to make indemnity and medical payments without acceptance of liability. The insurer must seek an extension from the department to extend the period beyond 90 days.

**Medical issues**

Initial Choice of Provider	Injured worker. Section 39-71-1101 MCA. <b>Choice of physician.</b> (Applies to injuries and ODs occurring on or after 7/1/11). a. The injured worker can choose the initial health care provider prior to an insurer's acceptance of the claim. b. Upon acceptance of the claim, the insurer can either approve the individual chosen by the injured worker or designate a "treating physician." The insurer can designate a treating physician at any time after acceptance of the claim.
Change of Provider	The injured worker must have the insurer's permission to change treating physician.
Medical Fee Schedule	<b>Medical fee schedules.</b> (Effective on 7/1/11, applies the rates in effect on the date the service is provided). Reimbursement varies based on status: If a treating physician is designated pay is 110% of fee schedule; all other health care providers – 90% of fee schedule; initial/emergency health care providers, prior to designation of the treating physician- 100% of fee schedule.
Managed Care	No. For more information, please refer to the <a href="#">WC Managed Care Quick Reference Chart by State Guide</a> .
Utilization Review	See Treatment Guidelines
Treatment Guidelines	<b>Utilization and Treatment (U &amp; T) Guidelines</b> (Effective 7/1/11) a. Provides that Department of Labor & Industry (DLI) shall adopt rules to implement U & T guidelines.
Generic Drug Substitution	The state mandates generic substitution.
Medical Mileage Reimbursement Rate	2016- \$0.54/mile (01/01/16)
Network Information	First Health is primary and Corvel is secondary.
Ability to Terminate Medical Treatment	Yes for non-compliance. Section 39-71-1106 MCA <b>Closure of medical benefits 60 months from the date of injury or date of diagnosis of occupational disease (OD).</b> (Applies to injuries and ODs occurring on or after 7/1/11). a. Limited exceptions for prosthetic devices and permanently totally disabled individuals. b. Allows medical benefits to be reopened by a medical panel if treatment is necessary to allow a person to continue to work or return to work.
Settlement Allowed	Effective 04/12/11 for all claims regardless of date of injury can settle medical benefits.
Cap on benefits, exceptions	Medical benefits terminate 60 months from the date of injury or diagnosis of an occupational disease. A worker may request reopening of terminated medical benefits within 5 years of the termination. A request must be filed with the department and a medical panel will review the request and make a

**Montana Workers Compensation Claim State Environmental Guide**

	recommendation whether or not medical care should be reopened.
Payment of medical benefits under a reservation of rights	Pursuant to Section 39-71-615, an insurer can make payments on medical-only claims without acceptance of liability upon notice to the worker. There is no requirement to obtain an extension from the department to pay medical-only benefits beyond 90 days.

**Other Issues**

WC Hearing Docket Speed	Estimate 3 months to hearing after filing petition; up to 1 year after the hearing to a decision
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 among carriers who contribute to an occupational disease.
Second Injury Fund availability	Yes it is called Subsequent Injury Fund
Other Offset Opportunities	Social Security Disability
EDI	Claims EDI Release 1: FROI & SROI (7/1/2000)
In-State Adjusting Required	Yes. Section 39-71-107 MCA
License or Certification Required	Voluntary Claims Examiner Certification

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*Note: The following sections and any information contained within these sections, are intended for internal use only and should not be distributed or shared outside of Travelers.*

**Need for Reform**

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**Major Developments**

	The 2011 Legislative Session enacted numerous changes to the Workers' Compensation statutes aimed at reducing work comp costs. See House Bill 334.
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**Additional Comments**

	<p>Department of Labor and Industry:  <a href="http://erd.dli.mt.gov">http://erd.dli.mt.gov</a></p> <p>Montana Workers' Compensation Court  <a href="http://wcc.dli.state.mt.us">http://wcc.dli.state.mt.us</a></p> <p>State Law Library with link to Montana Code Annotated (MCA)  <a href="http://courts.mt.gov/library">http://courts.mt.gov/library</a></p>