



Preliminary Cost Impact Analysis

Montana Treating Physician Proposal

As Requested on 06/19/2014

NCCI has completed a preliminary cost impact analysis for a Montana proposal involving the choice of treating physician.

The analysis below is considered preliminary. NCCI may supplement this document with a complete and final analysis of the proposal at a later date. It is possible that the estimated impact of the final analysis will differ materially from what is provided in this document. Note that the absence of an update to the preliminary analysis does not signify that this is NCCI's final assessment of the cost impact of this proposal.

Preliminary Cost/Directional Impact(s)

NCCI estimates that the proposed changes to the choice of treating physician provisions may have an upward impact on workers compensation system costs in Montana. The magnitude of such an increase, however, is uncertain.

Background and Summary

Currently in Montana, the employee selects a medical provider as defined in §39-71-116(41) for initial treatment. After accepting liability for the claim, the insurer may designate (for any reason) a treating physician who agrees to assume the responsibilities of a treating physician per §39-71-1101(2).

The current provisions regarding choice of treating physician have been in place since the enactment of HB 334 in 2011. NCCI estimated the choice of treating physician provisions in HB 334 to have a -8.5% impact on overall system costs in Montana, effective 7/1/2011. That cost impact analysis was based on research published by the Workers Compensation Research Institute (WCRI)¹. At the time HB 334 was enacted, the Montana system was neither a 'pure employee' nor 'pure employer' choice of physician system. For derivation of the filed impacts, NCCI modified the published WCRI results based on judgment and feedback from system stakeholders related to the Montana workers compensation system (as compared with the state-specific characteristics of those states included in the WCRI study).

This proposal would appear to continue to allow the employer to select the treating physician, but only under certain circumstances. Under the proposal, (after the employee first selects their healthcare provider for initial treatment), the employer/carrier may then designate a treating physician (only) under the following circumstances:

- The treating physician chosen by the worker fails to comply with their responsibilities as 'treating physician' under §39-71-1101(2), or

¹ *The Impact of Provider Choice on Workers' Compensation Costs and Outcomes*, WCRI (2005), Victor et. al.



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- The treating physician choice of the worker failed to give due consideration for the type of injury or occupational disease suffered, or
- The treating physician may be changed at any time with the consent of both the worker and insurer.

NCCI Commentary

If the proposed changes to the choice of physician provisions were enacted, the impact on the Montana system could range from:

- Complete reversal of the choice of treating physician cost impacts contained in HB 334 due to the proposed restrictions on changing the treating physician, to
- Minimal cost impact since only a relatively small number of claims may be affected.

Compared to the current situation in Montana, the difference in the number of claims (and associated cost) that would result in a change in treating physician if this proposal were enacted is difficult to discern. If enacted, the cost impact of this proposal would be affected by the behavior of various stakeholders since it would (at least) depend on:

- Injured workers' decisions to use their own healthcare provider, or to consent to a change in treating physician, or to dispute an attempted change in treating physician,
- Carriers' and employers' decisions to change the treating physician, or to dispute a refusal of their attempted change in treating physician,
- The ability to prove that a change in treating physician was appropriate and in accordance with the law,
- Treating physicians' compliance with their responsibilities under §39-71-1101(2), and
- Hearing officers' and judges' decisions on changes in treating physicians (in cases where a change in treating physician is disputed).

Data on claims impacted solely by the choice of physician provision contained in HB 334 reform is not available to NCCI.

The cost impact from this proposal is influenced by stakeholders' behavior, and NCCI does not have sufficient relevant data or information at this time to estimate the cost impact of this proposal. Although there may be upward pressure on workers compensation system costs in Montana if this proposal were enacted, the cost impact is uncertain. Any cost impacts related to this change, if enacted, would be realized in subsequent claims experience and reflected in future loss cost filings in Montana.



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Other Issues

- If this proposal were enacted, a carrier's request for a change in treating physician could be disputed, which may increase loss adjustment expenses and frictional costs.
- Since no specific effective date was stated for this proposal, this change may be applied retroactively. The benefit provisions at the time the premiums were calculated for policies written prior to the effective date of the proposed change may be different than the benefit provisions under this proposal. To the extent that the provisions of this proposal result in higher system costs, such costs were not contemplated in premiums determined for such prior policies, and thus may generate an unfunded liability for the workers compensation system.