



Workers Compensation FAQ's

The following are frequently asked questions and answers, you may also find answers in the [Benefits Summary](#). Nothing on this website is intended as legal advice. Responses may be different depending on the facts. If you need legal advice, please consult an attorney.

Sections referenced below are taken from the [Montana Codes Annotated](#) (MCA), the Montana Workers' Compensation Act.

General Questions

1. Q. I was injured on the job, which was reported to my employer, but a claim has not been filed. What can I do?
A. You may contact the Employment Relations Division at (406) 444-6543, your local job service office or download a claim [form](#) (First Report of Injury) and instructions from our website.

2. Q. How do I find out the status of my claim?
A. You will need to contact the adjusting company responsible for managing your claim. If you do not know who to contact, call our office at (406) 444-6543 for assistance.

3. Q. I was hurt on the job and my employer insisted I go to a medical clinic. Can I choose my own physician?
A. You may choose the treating physician for initial treatment. Any time after acceptance of liability by an insurer, they may designate a different treating physician, or approve your choice of the treating physician.

The treating physician is responsible for the management and coordination of your medical care and must treat you within the recommendations of Montana's Utilization and Treatment Guidelines. An insurer is not responsible for treatment or services that do not fall within the utilization and treatment guidelines adopted by the Department, unless the provider obtains prior authorization from the insurer. If prior authorization is not requested or obtained from the insurer, an injured worker is not responsible for payment of the medical treatment or services. See "Medical Benefits" in the [Benefits Summary](#).

4. Q. My claims examiner has scheduled an appointment for me to be seen by another doctor. Do I have to attend this appointment?
A. Section [39-71-605](#), MCA. Generally, yes, the examiner is allowed to schedule periodic independent medical evaluations (IME). The time and place for the examination, must take into consideration the employee's convenience, physical condition, and ability to attend at the time and place that is as close to the employee's residence as is practical.

5. Q. I was injured at work and my employer does not have workers' compensation coverage. What can I do?
A. Section [39-71-401](#), MCA. Please contact our office at (406) 444-6543 and ask to speak with someone in our [Uninsured Employer's Fund](#) (UEF) for assistance. You will also need to complete a [First Report of Injury](#) and send that to the UEF.
6. Q. Are workers' compensation benefits taxable?
A. No.
7. Q. Is my employer required to pay for my health insurance when I am off work due to a workers' compensation claim?
A. This is not addressed in the Montana Workers' Compensation Act. Contact your employer and/or your health insurance provider for information.
8. Q. After I filed a claim, my employer fired / laid me off. Can they do that?
A. Per section [39-71-317](#) MCA, an employer may not use as grounds for terminating a worker the filing of a claim under the Workers' Compensation Act. The district court has exclusive jurisdiction over disputes concerning the grounds for termination under this section. An employer may fill a position due to an employee being off work because of an injury. When an injured worker is capable of returning to work within 2 years from the date of injury and has received a medical release to return to work, the worker must be given a preference over other applicants for a comparable position that becomes vacant if the position is consistent with the worker's physical condition and vocational abilities.
9. Q. I was injured at work and feel my employer's negligence was responsible for the accident. Can I collect workers' compensation benefits and sue my employer?
A. Per section [39-71-411](#) MCA, Workers' compensation is a "no fault" system. Filing a workers' compensation claim is the injured workers' exclusive remedy. Except as provided in part 5 of this chapter for uninsured employers and except as otherwise provided in the Workers' Compensation Act, an employer is not subject to any liability whatever for the death of or personal injury to an employee covered by the Workers' Compensation Act or for any claims for contribution or indemnity asserted by a third person from whom damages are sought on account of the injuries or death.
10. Q. I was injured at work and feel there was negligence by a third party. Can I sue the third party?
A. Yes, per section [39-71-417](#) MCA. The right to compensation and medical benefits is not affected by the fact that the injury, occupational disease, or death is caused by the negligence of a third party other than the employer or the servants or employees of the employer. Whenever injury, occupational disease, or death occurs to an employee while performing the duties of employment and the event is caused by the act or omission of some persons or corporations other than the employee's employer or the servants or employees of the employee's employer, the employee or in case of death the employee's heirs or personal representative, in addition to the right to receive compensation, has a right to prosecute any cause of action that the employee or heirs may have for damages against the persons or corporations.

Re-Opening Closed Medical Benefits

11. Q. I have an old claim and need medical treatment. How do I reopen my claim?
- A. Section [39-71-704](#), MCA. You will need to contact the adjusting company responsible for managing your claim. If you do not know who to contact, call our office at (406) 444-6543 for assistance. For dates of injury on or after July 1, 2011, Medical benefits terminate 60 months (5 years) from the date of injury or diagnosis of an occupational disease. Within 5 years of the termination of medical benefits may be [reopened](#) only if the medical condition is a direct result of the compensable injury or occupational disease and requires medical treatment in order to allow you to continue to work or return to work. For dates of injury on or after July 1, 1991 and before July 1, 2011, if medical treatment is not received within a 60-month time frame, the medical benefits are closed.
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Independent Medical Review

12. Q. My doctor has recommended an MRI with the possibility of surgery which has been denied by my claim's examiner. What can I do?
- A. Section [39-71-704](#), MCA. All health care providers shall use the Montana Utilization and Treatment Guidelines when providing treatment to you. If the claims examiner has denied your doctor's recommendation, you may request an Independent Medical Review from the department's Medical Director. The Medical Director will review your medical records and other information relevant to the denial and issue an informal recommendation based on the provisions of the Montana Utilization and Treatment Guidelines. Please contact our office at (406) 444-6543 for assistance with the Medical Review Process.

If either you or the claims examiner disagree with the Medical Director's recommendation you may request a non-binding telephonic mediation conference. Please refer to the [Dispute Resolution Section](#) for additional information.

Impairment Rating

13. Q. My doctor has issued me an impairment rating based on my injury. What does this mean?
- A. Sections [39-71-703](#) and [39-71-711](#), MCA. You may be entitled to payment of an impairment award. Contact your claims examiner for additional information.
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Medical & Wage Benefits

14. Q. Will I receive workers' compensation benefits for time loss to attend medical or physical therapy appointment(s)?
- A. [Section 39-71-712](#), MCA. a worker is not eligible for temporary partial disability benefits or temporary total disability benefits if the worker has been released by the treating physician to return to a modified or alternative position that the individual is able and qualified to perform with the same employer.
15. Q. I work two jobs and was injured at one of them and am unable to work both jobs. How is my compensation determined?
- A. Section [39-71-123](#), MCA. Wages from both employments will be used to calculate the wage loss benefits. Refer to [Benefits Summary](#) regarding computing wage loss benefits.

16. Q. I received a new job with another employer after I had a workers' compensation claim. I have now been taken off work due to my injury. Can I be compensated for my wage loss?
- A. Yes, the wage loss benefits will be based on the wages earned with the time of injury employer.
17. Q. I am off work due to my injury. When can I expect payment of wage loss benefits?
- A. Sections [39-71-107](#), MCA and [39-71-606](#), MCA. The claims examiner has 30 days from the date of receipt of a signed claim to investigate and determine liability. If and when the claim has been accepted, payment of wage loss benefits is due within 14 days. Refer to Wage Loss in the [Benefit Summary](#).
18. Q. Is there a waiting period before I receive benefits?
- A. Section [39-71-736](#), MCA. Compensation may not be paid for the first 32 hours or 4 days' loss of wages, whichever is less, that the claimant is totally disabled and unable to work because of an injury. A claimant is eligible for compensation starting with the 5th day. If you are totally disabled and unable to work for 21 days or longer, compensation may be paid retroactively to the first day of total wage loss.
19. Q. How often are wage loss benefits paid?
- A. Section [39-71-740](#), MCA. Benefits are paid at the end of a two-week time frame.
20. Q. My benefit checks are not paid consistently and are often late. What can I do?
- A. Section [39-71-740](#), MCA. Contact your claims examiner for an explanation. You may also contact this office for assistance at (406) 444-6543.
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Denied Claims

21. Q. Can a claim be denied if drugs or alcohol are involved?
- A. Yes, per section [39-71-407](#), MCA. An employee is not eligible for benefits if the employee's use of alcohol or drugs not prescribed by a physician is the major contributing cause of the accident. However, if the employer had knowledge of, and failed to attempt to stop the employee's use of alcohol or drugs, this subsection does not apply.
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Termination of Benefits

Note: Benefits "Terminate" for reasons such as being released to work by your treating physician. Benefits "Close" due to the expiration of time such as 5 years since the date of your injury.

22. Q. Is the insurance company required to notify the injured worker of termination of benefits before they are actually stopped?
- A. Section [39-71-609](#), MCA. The examiner is required to issue a 14-day notice of benefit termination. However, if an insurer has knowledge that a claimant has returned to work, compensation benefits may be terminated as of the time the claimant returned to work.
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Vocational Rehab Benefits

23. Q. My doctor says I will be unable to return to work. Are retraining benefits available?
- A. Section [39-71-1006](#), MCA. Possibly, refer to Rehabilitation Benefits, [Benefits Summary](#).