

HOUSE BILL 506

Introduced by Cobb

1/31	Introduced
1/31	Referred to Labor & Employment Relations
2/01	Fiscal Note Requested
2/01	First Reading
2/04	Fiscal Note Received
2/05	Fiscal Note Printed
2/14	Hearing
2/15	Committee Report--Bill Passed as Amended
2/23	2nd Reading Passed
2/26	3rd Reading Passed
	Transmitted to Senate
2/27	First Reading
2/27	Referred to Labor & Employment Relations
3/12	Hearing
3/27	Tabled in Committee

House BILL NO. 506

INTRODUCED BY Cobb

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LUMP-SUM PAYMENT PROCEDURE FOR PERMANENT PARTIAL WAGE SUPPLEMENT WORKERS' COMPENSATION BENEFITS; REMOVING THE AUTHORITY TO DETERMINE WHETHER A LUMP-SUM CONVERSION WILL BE AGREED UPON; RESTORING TO THE WORKERS' COMPENSATION COURT JURISDICTION OVER CONTROVERSIES REGARDING PROPOSED LUMP-SUM CONVERSIONS; AND AMENDING SECTION 39-71-741, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-741, MCA, is amended to read:

"39-71-741. Compromise settlements, lump-sum payments, and lump-sum advance payments. (1) (a) Benefits may be converted in whole to a lump sum:

if a claimant and an insurer dispute the initial compensability of an injury; and

if the claimant and insurer agree to a settlement.

(b) The An agreement to convert benefits to a lump sum under this subsection is subject to department approval. The department may disapprove an agreement under this section only if there is not a reasonable dispute over compensability.

(c) Upon approval, the agreement constitutes a

compromise and release settlement and may not be reopened by the department or by any court.

(d) The parties' failure to reach an agreement is not a dispute over which a mediator or the workers' compensation court has jurisdiction.

(2) (a) If an insurer has accepted initial liability for an injury, permanent total and permanent partial wage supplement benefits may be converted in whole to a lump-sum payment.

(b) The conversion may be made only upon agreement between a claimant and an insurer.

(c) (b) The An agreement to convert benefits to a lump sum under this subsection is subject to department approval.

The department may approve an agreement if:

(i) there is a reasonable dispute concerning the amount of the insurer's future liability or benefits; or

(ii) the amount of the insurer's projected liability is reasonably certain and the settlement amount is not substantially less than the present value of the insurer's liability.

(d) The parties' failure to reach an agreement is not a dispute over which a mediator or the workers' compensation court has jurisdiction.

(e) (c) Upon approval, the agreement constitutes a compromise and release settlement and may not be reopened by

1 the department ~~or~~-by-any-court.

2 (3) (a) Permanent partial wage supplement benefits may
3 be converted in part to a lump-sum advance.

4 ~~tbj--The--conversion--may--be--made--only--upon--agreement~~
5 ~~between-a-claimant-and-an-insurer.~~

6 ~~fcf(b) The An agreement to convert benefits to a lump~~
7 ~~sum under this subsection is subject to department approval.~~

8 The department may approve an agreement if the parties
9 demonstrate that the claimant has financial need that:

10 (i) relates to the necessities of life or relates to an
11 accumulation of debt incurred prior to injury; and

12 (ii) arises subsequent to the date of injury or arises
13 because of reduced income as a result of the injury.

14 ~~tdj--The-parties'-failure-to-reach-an-agreement-is-not-a~~
15 ~~dispute--over--which-a-mediator-or-the-workers'-compensation~~
16 ~~court-has-jurisdiction.~~

17 (4) Permanent total disability benefits may be
18 converted to a lump-sum advance. The total of all lump-sum
19 advance payments to a claimant may not exceed \$20,000. A
20 conversion may be made only upon the written application of
21 the injured worker with the concurrence of the insurer.
22 Approval of the lump-sum advance payment rests in the
23 discretion of the department. The approval or award of a
24 lump-sum advance payment by the department or court must be
25 the exception. It may be given only if the worker has

1 demonstrated financial need that:

2 (a) relates to:

3 (i) the necessities of life;

4 (ii) an accumulation of debt incurred prior to the
5 injury; or

6 (iii) a self-employment venture as set forth in
7 39-71-1026; and

8 (b) arises subsequent to the date of injury or arises
9 because of reduced income as a result of the injury.

10 (5) (a) An insurer may recoup any lump-sum advance
11 amortized at the rate established by the department,
12 prorated biweekly over the projected duration of the
13 compensation period.

14 (b) The rate adopted by the department must be based on
15 the average rate for United States 10-year treasury bills in
16 the previous calendar year, rounded to the nearest whole
17 number.

18 (c) If the projected compensation period is the
19 claimant's lifetime, the life expectancy must be determined
20 by using the most recent table of life expectancy as
21 published by the United States national center for health
22 statistics.

23 (6) The department has full power, authority, and
24 jurisdiction to allow, approve, or condition compromise
25 settlements or lump-sum advances agreed to by workers and

1 insurers. All such compromise settlements and lump-sum
2 payments are void without the approval of the department.
3 Approval by the department must be in writing. The
4 department shall directly notify a claimant of a department
5 order approving or denying a claimant's compromise or
6 lump-sum payment.

7 (7) Subject to 39-71-2401, a dispute between a claimant
8 and an insurer regarding the conversion of biweekly payments
9 into a lump-sum advance under subsection (4) is considered a
10 dispute, for which a mediator and the workers' compensation
11 court have jurisdiction to make a determination. If an
12 insurer and a claimant agree to a compromise and release
13 settlement or a lump-sum advance but the department
14 disapproves the agreement, the parties may request the
15 workers' compensation court to review the department's
16 decision."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0506, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise the lump-sum payment procedure for permanent partial wage supplement workers' compensation benefits; removing the authority to determine whether a lump-sum conversion will be agreed upon; restoring to the Workers' Compensation Court jurisdiction over controversies regarding proposed lump-sum conversions; and amending section 39-71-741, MCA.

ASSUMPTIONS:

1. The proposed legislation does not impact state revenues or expenditures.

FISCAL IMPACT:

None

1-1-91
ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE

John Cobb
JOHN COBB, PRIMARY SPONSOR

Fiscal Note for HB0506, as introduced.

2-5-91
DATE

HB 506

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 39-71-741, MCA, is amended to read:

14 "39-71-741. Compromise settlements, lump-sum payments

15 and lump-sum advance payments. (1) (a) Benefits may be

16 converted in whole to a lump sum:

17 if if a claimant and an insurer dispute the initial

18 compensability of an injury; and

19 if-the-claimant-and-insurer-agree-to-a-settlement.

20 (b) The An agreement to convert benefits to a lump sum
21 under this subsection is subject to department approval. The
22 department may disapprove an agreement under this section
23 only if there is not a reasonable dispute over
24 compensability.

25 (c) Upon approval, the agreement constitutes a

1 compromise and release settlement and may not be reopened by
2 the department or-by-any-court.

3 --The-parties'--failure-to-reach-an-agreement-is-not-a 4 dispute-over-which-a-mediator-or-the--workers'--compensation 5 court-has-jurisdiction. |

6 (2) (a) If an insurer has accepted initial liability
7 for an injury, permanent total and permanent partial wage
8 supplement benefits may be converted in whole to a lump-sum
9 payment.

10 fb--The-conversion-may--be--made--only--upon--agreement
11 between-a-claimant-and-an-insurer.

12 ter(b) The An agreement to convert benefits to a lump
13 sum under this subsection is subject to department approval.
14 The department may approve an agreement if:

15 (i) there is a reasonable dispute concerning the amount
16 of the insurer's future liability or benefits; or
17 (ii) the amount of the insurer's projected liability is
18 reasonably certain and the settlement amount is not
19 substantially less than the present value of the insurer's
20 liability.

21 --The--parties'--failure--to--reach--agreement--is--not--a 22 dispute--over--which--a--mediator--or--the--workers'--compensation 23 court--has--jurisdiction. |

24 24 tet(c) Upon approval, the agreement constitutes a
25 compromise and release settlement and may not be reopened by

1 the department or by any court.

2 (3) (a) Permanent partial wage supplement benefits may
3 be converted in part to a lump-sum advance.

4 ~~tb}--The--conversion--may--be--made--only--upon--agreement~~
5 ~~between-a-claimant-and-an-insurer.~~

6 ~~tb}--The An agreement to convert benefits to a lump~~
7 ~~sum under this subsection is subject to department approval.~~

8 The department may approve an agreement if the parties
9 demonstrate that the claimant has financial need that:

10 (i) relates to the necessities of life or relates to an
11 accumulation of debt incurred prior to injury; and

12 (ii) arises subsequent to the date of injury or arises
13 because of reduced income as a result of the injury.

14 ~~td}--The parties' failure to reach an agreement is not a~~
15 ~~dispute--over--which-a-mediator-or-the-workers'-compensation~~
16 ~~court-has-jurisdiction.~~

17 (4) Permanent total disability benefits may be
18 converted to a lump-sum advance. The total of all lump-sum
19 advance payments to a claimant may not exceed \$20,000. A
20 conversion may be made only upon the written application of
21 the injured worker with the concurrence of the insurer.
22 Approval of the lump-sum advance payment rests in the
23 discretion of the department. The approval or award of a
24 lump-sum advance payment by the department or court must be
25 the exception. It may be given only if the worker has

1 demonstrated financial need that:

2 (a) relates to:

3 (i) the necessities of life;

4 (ii) an accumulation of debt incurred prior to the
5 injury; or

6 (iii) a self-employment venture as set forth in
7 39-71-1026; and

8 (b) arises subsequent to the date of injury or arises
9 because of reduced income as a result of the injury.

10 (5) (a) An insurer may recoup any lump-sum advance
11 amortized at the rate established by the department,
12 prorated biweekly over the projected duration of the
13 compensation period.

14 (b) The rate adopted by the department must be based on
15 the average rate for United States 10-year treasury bills in
16 the previous calendar year, rounded to the nearest whole
17 number.

18 (c) If the projected compensation period is the
19 claimant's lifetime, the life expectancy must be determined
20 by using the most recent table of life expectancy as
21 published by the United States national center for health
22 statistics.

23 (6) The department has full power, authority, and
24 jurisdiction to allow, approve, or condition compromise
25 settlements or lump-sum advances agreed to by workers and

1 insurers. All such compromise settlements and lump-sum
2 payments are void without the approval of the department.
3 Approval by the department must be in writing. The
4 department shall directly notify a claimant of a department
5 order approving or denying a claimant's compromise or
6 lump-sum payment.

7 (7) Subject to 39-71-2401, a dispute between a claimant
8 and an insurer regarding the conversion of biweekly payments
9 into a ~~lump-sum--advance--under-subsection-f4~~ LUMP SUM is
10 considered a dispute, for which a mediator and the workers'
11 compensation court have jurisdiction to make a
12 determination. If an insurer and a claimant agree to a
13 compromise and release settlement or a lump-sum advance but
14 the department disapproves the agreement, the parties may
15 request the workers' compensation court to review the
16 department's decision.

17 (8) AS USED IN THIS SECTION, "AGREEMENT" MEANS AN
18 AGREEMENT BETWEEN THE CLAIMANT AND THE INSURER."

-End-

HOUSE BILL NO. 506
INTRODUCED BY COBB

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
5 LUMP-SUM PAYMENT PROCEDURE FOR PERMANENT PARTIAL WAGE
6 SUPPLEMENT WORKERS' COMPENSATION BENEFITS; REMOVING THE
7 AUTHORITY TO DETERMINE WHETHER A LUMP-SUM CONVERSION WILL BE
8 AGREED UPON; RESTORING TO THE WORKERS' COMPENSATION COURT
9 JURISDICTION OVER CONTROVERSIES REGARDING PROPOSED LUMP-SUM
10 CONVERSIONS; AND AMENDING SECTION 39-71-741, MCA."

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 39-71-741, MCA, is amended to read:

14 "39-71-741. Compromise settlements, lump-sum payments

15 and lump-sum advance payments. (1) (a) Benefits may be

16 converted in whole to a lump sum.

17 tit if a claimant and an insurer dispute the initial
18 compensability of an injury; and
19 tit-if-the-claimant-and-insurer-agree-to-a-settlement.
20 (b) The An agreement to convert benefits to a lump sum
21 under this subsection is subject to department approval. The
22 department may disapprove an agreement under this section
23 only if there is not a reasonable dispute over
24 compensability.

25 (c) Upon approval, the agreement constitutes a

1 compromise and release settlement and may not be reopened by
2 the department or by any court.

3 --The-parties'--failure-to-reach-an-agreement-is-not-a 4 dispute-over-which-a-mediator-or-the--workers'--compensation 5 court-has-jurisdiction. |

6 (2) (a) If an insurer has accepted initial liability
7 for an injury, permanent total and permanent partial wage
8 supplement benefits may be converted in whole to a lump-sum
9 payment.

10 tb}--The-conversion-may--be--made--only--upon--agreement
11 between-a-claimant-and-an-insurer.

12 ter(b) The An agreement to convert benefits to a lump
13 sum under this subsection is subject to department approval.
14 The department may approve an agreement if:

15 (i) there is a reasonable dispute concerning the amount
16 of the insurer's future liability or benefits; or

17 (ii) the amount of the insurer's projected liability is
18 reasonably certain and the settlement amount is not
19 substantially less than the present value of the insurer's
20 liability.

21 --The--parties--failure--to--reach--agreement--is--not--a 22 dispute--over--which--a--mediator--or--the--workers'--compensation 23 court--has--jurisdiction. |

24 ~~for~~(c) Upon approval, the agreement constitutes a
25 compromise and release settlement and may not be reopened by

THIRD READING

1 the department or by any court.

2 (3) (a) Permanent partial wage supplement benefits may
3 be converted in part to a lump-sum advance.

4 ~~fbj--The conversion--may--be--made--only--upon--agreement~~
5 ~~between--a--claimant--and--an--insurer.~~

6 ~~fbj(b) The An agreement to convert benefits to a lump~~
7 ~~sum under this subsection is subject to department approval.~~

8 The department may approve an agreement if the parties
9 demonstrate that the claimant has financial need that:

10 (i) relates to the necessities of life or relates to an
11 accumulation of debt incurred prior to injury; and

12 (ii) arises subsequent to the date of injury or arises
13 because of reduced income as a result of the injury.

14 ~~fbj--The parties' failure to reach an agreement is not a~~
15 ~~dispute--over--which--a--mediator--or--the--workers'--compensation~~
16 ~~court--has--jurisdiction.~~

17 (4) Permanent total disability benefits may be
18 converted to a lump-sum advance. The total of all lump-sum
19 advance payments to a claimant may not exceed \$20,000. A
20 conversion may be made only upon the written application of
21 the injured worker with the concurrence of the insurer.
22 Approval of the lump-sum advance payment rests in the
23 discretion of the department. The approval or award of a
24 lump-sum advance payment by the department or court must be
25 the exception. It may be given only if the worker has

1 demonstrated financial need that:

2 (a) relates to:

3 (i) the necessities of life;

4 (ii) an accumulation of debt incurred prior to the
5 injury; or

6 (iii) a self-employment venture as set forth in
7 39-71-1026; and

8 (b) arises subsequent to the date of injury or arises
9 because of reduced income as a result of the injury.

10 (5) (a) An insurer may recoup any lump-sum advance
11 amortized at the rate established by the department,
12 prorated biweekly over the projected duration of the
13 compensation period.

14 (b) The rate adopted by the department must be based on
15 the average rate for United States 10-year treasury bills in
16 the previous calendar year, rounded to the nearest whole
17 number.

18 (c) If the projected compensation period is the
19 claimant's lifetime, the life expectancy must be determined
20 by using the most recent table of life expectancy as
21 published by the United States national center for health
22 statistics.

23 (6) The department has full power, authority, and
24 jurisdiction to allow, approve, or condition compromise
25 settlements or lump-sum advances agreed to by workers and

1 insurers. All such compromise settlements and lump-sum
2 payments are void without the approval of the department.
3 Approval by the department must be in writing. The
4 department shall directly notify a claimant of a department
5 order approving or denying a claimant's compromise or
6 lump-sum payment.

7 (7) Subject to 39-71-2401, a dispute between a claimant
8 and an insurer regarding the conversion of biweekly payments
9 into a ~~lump-sum--advance--under-subsection-(4)~~ LUMP SUM is
10 considered a dispute, for which a mediator and the workers'
11 compensation court have jurisdiction to make a
12 determination. If an insurer and a claimant agree to a
13 compromise and release settlement or a lump-sum advance but
14 the department disapproves the agreement, the parties may
15 request the workers' compensation court to review the
16 department's decision.

17 (8) AS USED IN THIS SECTION, "AGREEMENT" MEANS AN
18 AGREEMENT BETWEEN THE CLAIMANT AND THE INSURER."

-End-