

HOUSE BILL 339

Introduced by Thomas

1/21	Introduced
1/23	Referred to Labor & Employment Relations
1/24	Fiscal Note Requested
1/28	Fiscal Note Received
1/30	Fiscal Note Printed
1/31	Hearing
2/08	Committee Report--Bill Passed as Amended
2/10	2nd Reading passed
2/13	3rd Reading Passed

Transmitted to Senate

2/14	Referred to Business & Industry
3/07	Hearing Died in Committee

House BILL NO. 339

1 INTRODUCED BY Thomas

2 BY REQUEST OF THE DIVISION OF WORKERS' COMPENSATION

3 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR PAYMENT  
4 OF DOMICILIARY CARE SERVICES AS A BENEFIT OF WORKERS'  
5 COMPENSATION INSURANCE; PROVIDING A MONETARY LIMIT ON SUCH  
6 SERVICES; AND AMENDING SECTION 39-71-704, MCA."

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9       **Section 1.** Section 39-71-704, MCA, is amended to read:

10       **"39-71-704. Payment of medical, hospital, and related  
11 services -- fee schedules and hospital rates.** (1) In  
12 addition to the compensation provided by this chapter and as  
13 an additional benefit separate and apart from compensation,  
14 the following shall be furnished:

15       (a) After the happening of the injury, the insurer  
16 shall furnish, without limitation as to length of time or  
17 dollar amount;

18            (i) reasonable services by a physician or surgeon;

19            (ii) reasonable hospital services and medicines when  
20 needed;

21            (iii) domiciliary care services as provided in [section  
22 2]; and

23            (iv) such other treatment as may be approved by the

24       division for the injuries sustained.

25       (b) The insurer shall replace or repair prescription  
eyeglasses, prescription contact lenses, prescription  
hearing aids, and dentures that are damaged or lost as a  
result of an injury, as defined in 39-71-119, arising out of  
and in the course of employment.

26       (2) A relative value fee schedule for medical,  
27 chiropractic, and paramedical services provided for in this  
28 chapter, excluding hospital services, shall be established  
29 annually by the workers' compensation division and become  
30 effective in January of each year. The maximum fee schedule  
31 must be adopted as a relative value fee schedule of medical,  
32 chiropractic, and paramedical services, with unit values to  
33 indicate the relative relationship within each grouping of  
34 specialties. Medical fees must be based on the median fees  
35 as billed to the state compensation insurance fund during  
36 the year preceding the adoption of the schedule. The  
37 division shall adopt rules establishing relative unit  
38 values, groups of specialties, the procedures insurers must  
39 use to pay for services under the schedule, and the method  
40 of determining the median of billed medical fees. These  
41 rules shall be modeled on the 1974 revision of the 1969  
42 California Relative Value Studies.

43       (3) Beginning January 1, 1988, the division shall  
44 establish rates for hospital services necessary for the

1 treatment of injured workers. Approved rates must be in  
 2 effect for a period of 12 months from the date of approval.  
 3 The division may coordinate this ratesetting function with  
 4 other public agencies that have similar responsibilities.

5 (4) Notwithstanding subsection (2), beginning January  
 6 1, 1988, and ending January 1, 1990, the maximum fees  
 7 payable by insurers must be limited to the relative value  
 8 fee schedule established in January 1987. Notwithstanding  
 9 subsection (3), the hospital rates payable by insurers must  
 10 be limited to those set in January 1988, until December 31,  
 11 1989."

12 **NEW SECTION. Section 2. Domiciliary care services.**  
 13 (1) The insurer shall pay for domiciliary care services  
 14 performed by a member of the claimant's family, a home  
 15 health care attendant, or other provider if:

16 (a) the claimant or his representative makes a written  
 17 demand upon the insurer;

18 (b) the preponderance of credible medical evidence  
 19 demonstrates that such services are necessary as a result of  
 20 the injury and identifies with a reasonable degree of  
 21 particularity the nature and extent of the services to be  
 22 performed;

23 (c) the services are performed under the direction of  
 24 a physician;

25 (d) the services are of the type normally performed by

1 a trained attendant and are beyond the scope of normal  
 2 household duties; and  
 3 (e) there is a means to determine with reasonable  
 4 certainty the approximate value of the services.

5 (2) Payment for domiciliary care services is limited  
 6 to the actual reasonable and necessary charges incurred,  
 7 subject to a maximum limit of \$1,500 per month.

8 (3) Payment for domiciliary care services does not  
 9 create an employment relationship between the insurer and  
 10 the provider.

11 **NEW SECTION. Section 3. Extension of authority.** Any  
 12 existing authority to make rules on the subject of the  
 13 provisions of [this act] is extended to the provisions of  
 14 [this act].

15 **NEW SECTION. Section 4. Codification instruction.**  
 16 [Section 2] is intended to be codified as an integral part  
 17 of Title 39, chapter 71, part 7, and the provisions of Title  
 18 39, chapter 71, part 7, apply to [section 2].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB339, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

"An Act to provide for payment of domiciliary care services as a benefit of workers' compensation insurance; providing a monetary limit on such services; and amending Section 39-71-704, MCA."

FISCAL IMPACT:

There is no fiscal impact.

*Ray Shackleford*

1/28/89

RAY SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

*Fred Thomas*

FRED THOMAS, PRIMARY SPONSOR

1/30/89

DATE

Fiscal Note for HB339, as introduced

APPROVED BY COMMITTEE  
ON LABOR & EMPLOYMENT  
RELATIONS

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

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13           **\*39-71-704. Payment of medical, hospital, and related**

14           **services -- fee schedules and hospital rates.** (1) In

15           **addition to the compensation provided by this chapter and as**

16           **an additional benefit separate and apart from compensation,**

17           **the following shall be furnished:**

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19 shall furnish, without limitation as to length of time or  
20 dollar amount:

21            (i) reasonable services by a physician or surgeon;   
22            (ii) reasonable hospital services and medicines when  
23        needed;

24                   (iii) domiciliary care services as provided in [section  
25                   2]; and

25        2]; and

1            (iv) such other treatment as may be approved by the  
2 division for the injuries sustained.

25 (3) Beginning January 1, 1988, the division shall



1 establish rates for hospital services necessary for the  
 2 treatment of injured workers. Approved rates must be in  
 3 effect for a period of 12 months from the date of approval.  
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 5 other public agencies that have similar responsibilities.

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 15 performed by a member of the claimant's family, a home  
 16 health care attendant, or other provider if:

17 (a) ~~the-claimant-or-his-representative-makes-a-written~~  
 18 ~~demand--upon--the--insurer~~ **THE INSURER RECEIVES CONSTRUCTIVE**  
 19 **NOTICE FROM THE CLAIMANT OR HIS REPRESENTATIVE;**  
 20 (b) the preponderance of credible medical evidence  
 21 demonstrates that such services are necessary as a result of  
 22 the injury and identifies with a reasonable degree of  
 23 particularity the nature and extent of the services to be  
 24 performed;  
 25 (c) the services are performed under the direction of

1 a physician;  
 2 (d) the services are of the type normally performed by  
 3 a trained attendant and are beyond the scope of normal  
 4 household duties; and  
 5 (e) there is a means to determine with reasonable  
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