

LMAC
Claim Closure Legislative Proposal 3-8-10

New Section to be inserted in Title 39, Chapter 71, part 6 or 7

(1) When a claim for an injury has been made and liability has been accepted by the insurer or payments have been made by the insurer pursuant to 39-71-608 or -615, all benefits provided for in this chapter terminate within three years of the date of the injury, the date of the last indemnity payment, or the date of the last furnishing of medical benefits, whichever is later.

(2) When a claim for an occupational disease has been made and liability has been accepted by the insurer or payments have been made by the insurer pursuant to 39-71-608 or 615, all benefits provided for in this chapter terminate within three years of the date the claim was made, the date of the last indemnity payment, or the date of the last furnishing of medical benefits, whichever is later.

(3) The three year time period for final closure of a claim provided for in subsections (1) and (2) begins when the claimant and the department are given written notice by the insurer of the intent to close a claim pursuant to this section. Notice must be given at the time the insurer believes the three year period will begin based on its records.

(4) A claim closed pursuant to this section may be reopened for up to two years if the claimant can prove by a preponderance of evidence that there has been a substantial or material change in condition, and the condition is a result of the injury or disease. Reopened claims may be closed again pursuant to subsection (1) or (2).

(5) Any dispute regarding closure of a claim or reopening of a claim is considered a dispute that, after mediation pursuant to department rules, is subject to jurisdiction of the workers' compensation court.

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(6) The time period for closure of a claim provided for in subsections (1) and (2) is tolled while there is a dispute regarding whether benefits are due under the claim if a party to the dispute has requested mediation pursuant to department rules. The tolling of the time period continues until the 2 year limitation period of 39-71-2905 expires or there is a final judicial decision regarding the dispute, whichever is later. However, the tolling of the time period ceases if the parties otherwise resolve the dispute.

39-71-704. Payment of medical, hospital, and related services -- fee schedules and hospital rates -- fee limitation. (1) In addition to the compensation provided under this chapter and as an additional benefit separate and apart from compensation benefits actually provided, the following must be furnished:

(a) After the happening of a compensable injury and subject to other provisions of this chapter, the insurer shall furnish reasonable primary medical services for conditions resulting from the injury for those periods as the nature of the injury or the process of recovery requires.

. . . . (language of statute deleted for purposes of draft)

(f) Except for the repair or replacement of a prosthesis furnished as a result of an industrial injury, the benefits provided for in this section terminate pursuant to New Section 1 ~~when they are not used for a period of 60 consecutive months.~~

. . . . (language of statute deleted for purposes of draft)