

OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR



MIKE COONEY
LT. GOVERNOR

May 4, 2017

The Honorable Corey Stapleton
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary Stapleton:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto House Bill 358 (HB 358), “AN ACT REVISING WORKERS’ COMPENSATION LAWS PERTAINING TO MEDICAL RELEASE OR AUTHORIZATION; PERMITTING WORKERS’ COMPENSATION INSURERS TO DENY LIABILITY OR TERMINATE PAYMENTS IF A CLAIMANT FAILS OR REFUSES TO SIGN A RELEASE; AMENDING SECTIONS 39-71-604 AND 39-71-609, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.”

When a worker is injured on the job there is a negative impact to the worker, the worker’s family, the employer and Montana’s economy. To mitigate these negative impacts, Montana established the Workers’ Compensation Act. The purpose of the workers’ compensation system is to return an injured worker back to the job as quickly as possible by creating a no-fault system that minimizes reliance on lawyers and the courts to obtain benefits.

HB 358 would allow a workers’ compensation insurer to unilaterally deny or terminate payments to an injured worker if the worker fails or refuses to sign a release presented to the worker by the insurer.

Insurers have a legitimate need and right to access certain medical information to facilitate processing of a claim for benefits. That right, however, is subject to certain limitations. The Montana Supreme Court in *Malcomson v. Liberty Northwest*, 2014 MT 242, found an injured worker’s right to privacy was violated when an insurer directly communicated with her medical provider without first providing her notice and an opportunity to be present. The Court found that “insurers have a legitimate interest in engaging in ex parte contact with healthcare providers for the **sole purpose of facilitating the administrative aspects of the claim handling** procedure, such as scheduling appointments and requesting medical records.”

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My amendments to align HB 358 with the Court's decision in *Malcomson* were, unfortunately, rejected. Without the amendments HB 358 compromises the privacy interests of injured workers and could lead to additional court challenges.

For these reasons, I veto HB 358.

Sincerely,



STEVE BULLOCK

Governor

cc: Legislative Services Division
Scott Sales, President of the Senate
Austin Knudsen, Speaker of the House