

Montana

Montana Insurance Commission
840 Helena Avenue
Helena, MT 59604
(406) 444-2040

Summary of Important Regulations

MEWA Regulations	Yes
TPA Regulations	Yes
Stop-Loss Regulations	No
UR Regulations	Yes

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Health Insurance Reserves Model Regulation	None	Mont. Code Ann. § 33-2-514
Comprehensive Health Ins. Cost Containment Model Act	None	Mont. Code Ann. §§ 33-22-1501 to 1522
Standardized Health Claims Form Model Regulation	Mont. Admin. R. 6.6.5501 to 6.6.5515	None
Small Employer Health Insurance Availability Model Law	Mont. Code Ann. §§ 33-22-1801 to 33-22-1828	None
Model Regulation To Eliminate Unfair Sex Discrimination	Mont. Ins. Dept. Reg. §§ 6.6.1202 to 6.6.1203	Mont. Code Ann. § 49-2-309
Health Information Privacy Model Law	None	None
Preferred Provider Arrangements Model Law	Mont. Code Ann. §§ 33-22-1701 to 33-22-1707	None
Utilization Review Model Law	Mont. Code Ann. § 33-36-205	Mont. Code Ann. §§ 33-32-101 to 33-32-105, 33-32-201 to 33-32-204
Managed Care Plan Network Adequacy Model Law	Mont. Code Ann. §§ 33-36-101 to 33-36-402	None
Third Party Administrator Law	Mont. Code Ann. §§ 33-17-601 to 33-17-618	None

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Accident and Sickness Insurance Minimum Standards Model Law	None	None
Agents and Brokers Licensing Model Law	None	Mont. Code Ann. §§ 33-17-101 to 33-17-1114
MEWA Licensing Model Law	None	None
Managing General Agents Law	Mont. Code Ann. §§ 33-2-1601 to 33-2-1605	None
Health Maintenance Organization Model Law	Mont. Code Ann. §§ 33-31-101 to 33-31-405	None
Insurance Information and Privacy Protection Law	Mont. Code Ann. §§ 33-19-101 to 33-19-409	None
Unfair Trade Practices Law	Mont. Code Ann. §§ 33-18-101 to 33-18-1005	None
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Physical or Mental Impairment	None	None
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Total or Partial Blindness	Mont. Admin. R §§ 6.6.1201	None

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Unfair Discrimination against Subjects of Domestic Abuse in Health Benefit Plans Model Law	None	Mont. Code Ann. § 33-18-216
Unfair Claims Settlement Practices Law	Mont. Code Ann. § 33-18-201	None
Improper Termination Practices Law	None	None
Employee Leasing Registration Model Law	None	None
Private Employer Workers' Compensation Group Self- Insurance Model Law	None	None
Public Employee Workers' Compensation Group Self- Insurance Model Law	None	None
Twenty Four Hour Coverage Pilot Project Model Law	None	None

State-Mandates

Benefits That Must Be Covered

- Alcoholism treatment
- Breast reconstruction
- Drug abuse treatment
- Formula for PKU
- Infertility services and/or invitro fertilization
- Mammography screening
- Mental health, general
- Mental health, parity
- Minimum mastectomy stays
- Minimum maternity stays
- Well-child care

Benefits That Must Be Offered

- Home health care

Persons Who Must Be Offered Coverage

- Adopted children
- Continuation/employees
- Conversion to non-group
- Handicapped dependents
- Newborns
- Non-custodial children

Providers Who Must Be Covered

- Acupuncturists
- Chiropractors
- Dentists
- Nurse (Anesthetists)
- Nurse Midwives
- Nurse Practitioners
- Optometrists
- Osteopaths
- Pharmacists
- Physician Assistants
- Podiatrists
- Professional Counselors

- Psychologists
- Social Workers

Coordination of Benefits

- | | |
|----------------------------|-----|
| • Birthday Rule? | Yes |
| • Divorced/Separated Rule? | Yes |
| • Joint Custody Rule? | No |
| • Active v. Inactive Rule? | Yes |
| • Longer v. Shorter Rule? | Yes |
| • Managed Care Rule? | No |
| • COBRA Rule? | No |
| • Preservation Rule? | Yes |

Patient's Bill of Rights Legislation

None

High Risk Health Pool

Yes—150% cap

External Grievance System

Yes – all health care plans

Basis of Filing Grievance

Medical necessity

Status of Decision of Grievance Panel

Binding on all parties

Prompt Payment of Health Claim Requirement

None

Commentary

- Group disability policies covering family members of the insured must also cover treatment of phenylketonuria. Treatment means licensed professional medical services supervised by a physician and a dietary formula product to achieve and maintain normalized blood levels and adequate nutritional status.
- If an independent physical examination is required by the insurer, it must be conducted by a chiropractor engaged in such practice in Montana.
- A minimum of \$70 must be paid for basic mammography examination services.
- Any group disability policy that provides coverage for a family member of the insured must provide coverage for well-child care, including routine immunizations, for children from the moment of birth to age two.

MEWA Regulation

Montana enacted a MEWA statute in 1995.¹ The principal provision of the statute are as follows:

- MEWAs must be both authorized and registered.
- The aim of the statute is to achieve and maintain the financial integrity of the MEWA.
- Strict financial reporting is required.
- Harsh penalties result from non-compliance.
- To operate a MEWA, the sponsor must have a certificate of authority.
- Contingency reserves of at least 30% of actual claim reserves must be maintained.
- Adequate funding levels certified to by an actuary must be maintained.

TPA Regulations

Montana adopted an administrator law in 1979.² No criminal penalties attach as a result of violations.

- Fees and taxes—initial fee is \$100; the renewal fee is \$25.
- Records—there is a one-year retention.
- Bond—not required.
- Registration—a list of insurers under administrative agreement should be disclosed. These items are also needed:
 1. Copies of all pertinent agreements.
 2. Evidence of corporate good standing.
 3. Financials
 4. Resumes on key persons.

The Insurance Department may suspend or revoke the TPA's license after a hearing, giving a 20 days' advance notice. These are the causes of such action:

- Misrepresentation or fraud in obtaining license
- Code violation
- Felony or moral lapse
- Fraudulent or dishonest business practice
- Being incompetent, untrustworthy, or the source of injury or loss to the public

Fines of \$500 to \$1,500 may be levied by the state.

Stop-Loss Regulation

No regulations are reported.

Utilization Firm Regulations

Agency Responsible³
Requirements
Exemptions
Waivers

Dept. of Insurance
Must file UR plan with the Department of Insurance
Provider internal reviews.
None

Miscellaneous

State Premium Taxes

Commercial insurers are taxed at 2.75%; Blue Cross and HMOs are not taxed. All carriers also pay an additional 70¢ per year per Montana resident to fund a genetics program.

Small Group Reform⁴

Montana has two statutory provisions aimed at making health insurance more accessible for small employers. The first—limited benefits insurance—is aimed at employers with 20 or fewer employees and is not subject to mandated benefits provisions generally applicable to group health insurance plans, but instead requires limited benefit policies to adhere to a much narrower scope of minimum medical services. The second is more conventional small employer plan statute that requires policies offered to qualifying employers to provide a schedule of benefits that include most of the mandates applicable to larger group health insurance policies.

Limited Benefit Insurance. An employer of 20 or fewer employees (including part-time working at least 20 hours per week) that has not contributed to the provision of health insurance for its employees within the preceding 12 months may subscribe to a limited benefit insurance policy.

Standard Health Benefit Plan. In addition to the coverage mandated for basic health benefit plans, a standard health benefit plan also must cover the usual and customary charges for other items and services. A standard health benefit plan provided by an HMO, or such a plan with restricted network of providers, must provide a comparable level of benefits to those set out above, as determined by the benefit equivalency and benefit value.

MSA Legislation⁵

Who May Establish	Individual or employer
Tax Treatment	Principal and investment income withdrawn from an MSA for eligible medical expenses are tax-exempt.
Policy Deductible	Not specified
Max. Annual Deposit	\$3,000
Non-Medical Withdrawals	At end of year without penalty
Eligible Medical Expenses	Tracks IRC §213

Managed Care

Before determining that health care services are unnecessary, a health care professional performing utilization review must attempt to consult with the patient's health care provider.

Health care insurers must establish nondiscriminatory terms and conditions for preferred provider agreements. Price differences among hospitals or different geographical areas do not constitute discrimination. If providers satisfy the agreement terms and conditions, health care insurers must enter into preferred provider agreements with them.

Montana allows any provider willing to accept a PPO's terms and conditions of participation to participate.

Montana establishes a system of comprehensive regulation of the utilization review industry, including minimum operational standards, periodic filings with the Department of Insurance of description of review criteria and standards, appeals procedures, and confidentiality requirements. Statute has been interpreted by the Department of Insurance as requiring full disclosure of review written to the government which could then be

made public under state law.

Montana requires that all appeals of utilization review decisions affecting chiropractic services be done by someone trained in chiropractic. Law does not prevent additional review or interfere with normal claims determinations. Montana limits PPOs to a 25% price differential between in-network and out-of-network providers.

Continuation of Coverage and Conversion of Benefits

Montana law requires any group disability policy to provide continuation coverage to any family or dependents covered under the plan after the death of an employee or group member.⁶

Individuals who lose group disability coverage due to a reduction in hours may, with the consent of the employer or the plan trustee, continue coverage under the plan for up to one year. Premiums must equal that charged to other group members of the same risk class.

Group hospital and medical policies and medical service plan contracts must provide continuation coverage to mentally or physically incapacitated dependent children who become ineligible for group coverage because they cease to be a dependent under the plan. The child must be incapable of self-sustaining employment and chiefly dependent upon the covered person for support and maintenance. Proof of such incapacity must be provided to the plan within 31 days of the date that the child ceased to be a dependent under the plan.

Montana requires group disability insurance plans to allow participants and their covered dependents who lose group coverage due to employment termination or termination of the policy or of coverage the employee's class by the employer to convert to individual coverage without proof of insurability. Individuals must have been covered by the group policy for at least three months prior to loss of coverage, and must apply and pay the first premium within 31 days of termination of group coverage.

Group disability insurance plans and hospital or medical service contracts must allow participants and their dependents who lose group coverage due to termination of employment; the policy; membership class; or an employer's business to convert to individual coverage (or group coverage, in the case of disability plans) without proof of insurability. Individuals must have been covered by the group policy for at least three months prior to loss of coverage, and must apply and pay the first premium within 31 days of termination of group coverage. Premiums must be no more than 200 percent of the insurer's customary rate. The insurer must also make available an individual conversion policy. Premiums for that policy cannot exceed 150 percent of the highest rate charged for that plan.

Registration of Self-Funded Plans

A self-funded plan must register with the state Insurance Department. If the plan cannot show that it is subject to the jurisdiction of some other state or federal agency, it must meet certain solvency requirements and must comply with the insurance code. This means MEWAs are regulated.

Pool for Uninsurables

Montana has established a comprehensive health association for uninsurable and membership (and financial participation) extends to self-funded plans that are not exempt under ERISA.⁷

Endnotes

- ¹ Mont. Code Ann. §§ 33-35-101 to 33-35-307.
 - ² Mont. Code Ann. §§ 33-17-601 to 33-17-618.
 - ³ Mont. Code Ann. §§ 33-32-101 *et. seq.*
 - ⁴ Mont. Code Ann. §§ 33-22-1201 to 33-22-1205.
 - ⁵ Mont. Code Ann. §§ 33-26-101 *et. seq.*
 - ⁶ Mont. Code Ann. §§ 33-22-503 *et. seq.*
 - ⁷ Mont. Code Ann. § HB-817.
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