



## WORKING TOGETHER FOR MONTANA'S MUNICIPALITIES.

### IN THIS ISSUE...

- |            |   |
|------------|---|
| 1-2        | <a href="#"><u>New Member Service</u></a>                                   |
| 3          | <a href="#"><u>Winter Accidents</u></a>                                     |
| 4-5        | <a href="#"><u>MMIA EB – Things to Consider for Group Elections</u></a>     |
| 6          | <a href="#"><u>FMCSA Clearinghouse: The Good, the Bad, and the Ugly</u></a> |
| 7          | <a href="#"><u>Workers' Compensation: Casual Volunteers</u></a>             |
| 7          | <a href="#"><u>Legal Alert</u></a>  |
| Back Cover | <a href="#"><u>Local Government, We Got you Covered</u></a>                 |

## New Member Service

In our continued effort to be a proactive and adaptive leader in risk management, MMIA is excited to offer a new service to Member-Owners! Risk Management Evaluations are now available for the MMIA Liability and Workers' Compensation Programs. This new service is a systematic approach to evaluating Workplace Safety, General Municipal Operations Liability, and Incident Management.

### The Evaluation Services include:

- On-site **evaluation** of operations and risk management practices
- Custom **report** highlighting strengths and opportunities for improvement
- Tailored **recommendations** to address any deficiencies
- Specific **resources** to assist in completion of the recommendations
- **Follow up** from MMIA to ensure your municipality has what it needs to successfully reduce and control risk, as well as to identify areas for future evaluations

# New Member Service

(cont'd.)

Evaluations can be done for one program at a time or both programs simultaneously, depending on your individual municipality's needs. Large or complex operations may require multiple on-site evaluations for a complete assessment of operations and risk management practices. Member-Owners' active participation in this process is key in successfully reducing and controlling risk. Documentation associated with the Evaluation process such as reports, recommendations, correspondence, and resources will be available to Member-Owners through the Origami Risk platform.

## MMIA RM Evaluation Cycle



## Benefits of Evaluations

### Individual Member-Owner Benefits

Identifies areas of opportunity and provides tailored resources to reduce/control risk. Over time, reducing losses and controlling risk leads to lower costs for liability and workers' compensation coverage for your municipality. Other benefits include assistance with regulatory compliance and moving from reactive to proactive to stay ahead of future issues.

### Collective Benefits for the Self-Funded Pools

Each Member-Owner's efforts to reduce/control risk has an impact on each overall self-funded pools' results. The better each self-funded pool performs, the more stable and affordable rates for coverage become. Over time the evaluations will allow MMIA

to aggregate operational and risk management data along with data on losses and implemented recommendations to better guide our future risk management efforts. Benefits also include the ability to share best practices, solutions, and methods to control risk with the entire membership.

Risk Management Evaluations are the latest collaboration between MMIA and our Member-Owners to create, foster, and manage safe environments to minimize workplace injuries and liability claims such as bodily injury, personal injury, and property damage. Our team is here to help your municipality evaluate programs, policies, procedures and manage risks. Consistent evaluation is important as the world of risk is ever-changing. Don't wait, ***contact the risk management team at MMIA to schedule your evaluation today at 800-635-3089 or [riskmgmt@mmia.net](mailto:riskmgmt@mmia.net)***!



# Winter Accidents

## Liability Costs to the Employer and its Employees

What is a reasonable speed when driving a city or town vehicle or operating equipment in winter conditions? Only the operator at that moment could answer the question. However, should you become involved in an accident, law enforcement will establish whether you were operating the vehicle in accordance with the current road conditions. The outcome of an incident can be costly to both the city and the employee.

Your employees try to be responsible and drive to the existing road conditions. The streets are snow packed and the intersections are icy. The employee applies the brake a considerable distance from the intersection and the vehicle slows significantly. Suddenly, the brakes are no longer effective, and the vehicle begins sliding on ice and results in damage to someone else. Who's at fault? The icy roads or your employee? Should the operation of the vehicle or equipment have been at an even lower rate of speed?

MMIA provides liability coverage to its member-owners for damages arising out of its and or its employees' actions. Damages which MMIA has determined to be adverse to the city result in an out-of-pocket expense to the city owned property and the liability program. Often, we do not think about the potential costs to our employees.

Depending on the circumstances, employees may feel they did everything they could to avoid an incident. Although the city may be responsible for the damage, the operator feels that as an employee of the city he or she should not be held personally responsible due to the existing conditions that lead to the incident. This may not be the case.

**MCA 61-8-302** requires motorists to operate their vehicle in a careful and prudent manner. State statute does not give consideration to prevailing winter road conditions. No matter the speed, if a city or town vehicle or equipment slides on ice and damages property other than the city's, the city could possibly be held liable for the damages. Not only can the actions of your employee result in a loss to the city, but the actions could also mean a financial loss to the employee if law enforcement issues a traffic citation.

A traffic citation could go on the employee's driving record and possibly impact the employee's own personal auto insurance premium rates. Employees involved in an accident may also be subject to a reprimand depending on the accident.

Since approximately 2020, the rising costs of material and labor repairs have escalated from what used to be an average \$2,500 minor fender bender repair to \$5,000 or greater for minor repairs. More significant damage repairs have been compounded in kind. This holds true for both the liability program and property program, impacting your liability and property program deductibles, and potentially your liability program coverage assessment.

We all know accidents happen. Unfortunately, an accident due to prevailing winter conditions may mean that we did not drive as safe and prudent to the existing road conditions as maybe we should have. No matter the speed nor how hazardous the conditions, whether an employee is operating a city or town owned car, pickup, garbage truck, grader, or even their personal vehicle, an important part of your defensive driving training should include consideration of potential costs to the city and the potential indirect costs of an accident to your employee.



# MMIA Employee Benefits

## Things to Consider for Group Elections

### 2023 has come and gone, and 2024 is well underway. What does that mean for benefit administrators?

It's time to review your city/town benefit choices and contribution levels in advance of the Group Election Form due prior to the open enrollment period.

In October 2023, the MMIA Board of Directors approved relatively small yet meaningful changes to the medical plans for the upcoming FY24/25 plan year. By having discussions regarding your plan offerings soon, there will be plenty of time to introduce any proposed changes administratively and implement them without feeling rushed at the last minute.

### A recap of upcoming medical plan changes for July 1, 2024:

- Reduce total plan offerings from four to three.
  - The plans will be the Bridger Plan, Madison Plan and High Deductible Plan. Please note, after July 1, 2024, the current Mission Plan will no longer be available and any participants enrolled in the Mission Plan at that time will be moved to the Madison Plan, unless we hear otherwise from the participant during Open Enrollment.
- Increase spread/difference between offerings for more distinct choices.
- Reduce premium costs to mitigate annual increases, remain competitive in the marketplace and in compliance with IRS requirements.

The following outlines the Group Election process, timeline, and some questions and considerations for your internal discussions. As always, please reach out to MMIA EB with any questions.

**Group Election** Each spring, MMIA provides member cities and towns with the opportunity to change their benefits offered to their employees through MMIA. For example, you could begin offering dental, life or vision coverage to your employees if you don't already do so.

#### Timeline:

- **Beginning of April 2024:** Final rate letter distributed.
- **April 18, 2024:** Group Election form needs to be completed.

### What do you currently offer employees? What is your guiding philosophy when it comes to contribution amounts/levels for your employees?

#### MEDICAL:

#### Do you offer the full menu of plan offerings or only particular plans?

- If not the menu, why not? Offering the menu allows employees the opportunity to select coverage that meets their individual needs or the needs of their family. They can maximize or leverage the contribution you give them toward where they see the most value. This also helps employees acknowledge and appreciate the additional amount they receive from you, their employer, as additional compensation. While this might seem like additional administrative effort to manage, it's really not much different than employees selecting different enrollment levels (employee only vs. employee + family).





## CONTRIBUTIONS:

### What does your city/town contribute to the monthly employee coverage costs?

- Do you offer additional financial contributions for dependents?
- Do left over contribution dollars go toward a health savings account (HSA) if they choose HDHP and the premium is less than city contribution? Or towards a flexible spending account (FSA) for plans other than the HDHP? By offering a set amount that all employees receive and can “spend” toward benefits and allowing “left over amounts” to go to benefits like this can help budgeting by knowing how much you will provide to each employee, regardless of which coverage or enrollment level they select.
- If you are considering making changes to your contribution, offering the menu can help in the adjustment because employees have options on how to utilize their contribution.

## OTHER COVERAGE:

### Do you provide dental coverage? What about ortho? Vision?

- If not dental and/or vision, why not? They are a minimal cost to employees and make for a nice one-stop-shop for all their coverage needs. Dental and vision services are important in maintaining overall well-being and productivity and providing coverage options can be a valuable benefit for employees and their families.
- If you do not currently offer dental or vision and would like to start, remember that we need 80% of eligible employees to enroll in each coverage to start offering the coverage.

## Pro Tips for Consideration

- ➡ **Waiting period/start date:** Have benefits begin first of the month following whatever time period you choose (i.e. after DOH, after 30/60 days etc.). This is much cleaner and easier to coordinate for HR and MMIA enrollment/invoicing, especially since MMIA does not pro-rate for partial months of coverage. You can make changes to your waiting period on your group election form and the change will take effect with the new plan year on July 1, 2024. Just remember to also update your personnel policy to match at the same time if you have this rule addressed in there!
- ➡ **Hours required to be eligible for benefits:** This is also a good time to evaluate if you want to offer benefits to part-time employees, and what the hours required are to be eligible. Many of our members offer benefits to part-time employees and pro-rate the contribution they give based on the number of hours. The federal guideline is that any employee that works 30 or more hours a week on average needs to be offered benefits. Many employers go down to 20 hours a week (half-time) or more. Just make sure that employees are earning enough to cover their share of the benefits in payroll deductions. And again, make sure your personnel policy matches your decisions on the Group Election Form.
- ➡ **Medical plan offerings:** Offer the entire menu so employees have additional choice/control over their benefits and how they use the generous contributions from the city. Also, let employees know how much the city is contributing so they see it as part of their compensation. Many participants probably don't realize exactly how much their generous employer is helping them pay for these great benefits!

We would be happy to meet with employees after your decisions are made to help educate about the benefits and how to best utilize them!

It might seem a little early to have these discussions, but March and April will be here before we know it! We're always here to help.

800-635-3089 Option 4 | [ebgroup@mmia.net](mailto:ebgroup@mmia.net)

# FMCSA CLEARINGHOUSE:

## THE GOOD, THE BAD, AND THE UGLY



### The Good:

The Federal Motor Carrier Safety Administration (FMCSA) has established the Commercial Driver's License Drug and Alcohol Clearinghouse to house information related to drug and alcohol violations for drivers who have a Commercial Driver's License.

### The Bad:

It has been a requirement for employers to use this system since January 2020.

### The Ugly:

There are civil and criminal penalties for employers who do not use the Clearinghouse.

The Clearinghouse is a database developed to house information concerning any drug and alcohol violations of those who have a Commercial Driver's License (CDL). This provides one location where employers are required to go to verify that employees are not prohibited from operating a commercial vehicle due to a drug or alcohol violation. The Clearinghouse identifies drivers who are prohibited from operating a Commercial Motor Vehicle (CMV) based on U.S. Department of Transportation (DOT) drug and alcohol program violations and ensures that such drivers receive the required evaluation and treatment before operating a CMV. When hiring a new CDL driver, employers will no longer be required to contact previous employers. The Clearinghouse will be the one-stop resource for driver alcohol and drug violations.

FMCSA Clearinghouse rules require FMCSA-regulated employers, medical review officers, substance abuse professionals, and consortia/third-party administrators to report to the Clearinghouse information related to violations of the drug and alcohol regulations in 49 Code of Federal Regulations, Parts 40 and 382 by current and prospective employees. The rules also require:

- Employers to query the Clearinghouse for drug and alcohol violations by current and prospective employees before permitting those employees to operate a CMV on public roads.
- Employers to annually query the Clearinghouse for each driver they currently employ.

Employers are required to receive driver consent before querying the Clearinghouse and the website listed below provides a sample consent form. Querying the Clearinghouse requires employers to register with the Clearinghouse and pay a fee for each query. According to their website, the Clearinghouse currently charges \$1.25 per query.

Employers are required to report information about positive drug test results, alcohol test results greater than 0.04 blood alcohol content, refusals to test, and other non-test violations of FMCSA's drug and alcohol regulations to the Clearinghouse. Any employer who does not comply with the requirements of the Clearinghouse is subject to civil or criminal penalties.

For more information, please see the FMCSA Clearinghouse website at: [clearinghouse.fmcsa.dot.gov](https://clearinghouse.fmcsa.dot.gov)



# WORKERS' COMPENSATION:

## CASUAL VOLUNTEERS - YOU'VE ASKED, AND WE'VE LISTENED

### Changes to Workers' Compensation Casual Volunteer Roster Requirements

MMIA successfully launched an online application for members to apply for workers' compensation coverage for volunteers for casual events in July 2023. Members have enjoyed this quick, seamless way to request coverage online. This new application process also enhanced MMIA's response time by eliminating the former email request method allowing multiple staff to be notified for the review process at once.

One challenge member-owners have faced, even before the new online application was available, was capturing data from their volunteers for the volunteer roster. Until now, MMIA required either the last four digits of a volunteer's social security number, or their date of birth, to consider the roster complete. This requirement was to help ensure that in the event of a claim MMIA could verify the person filing the claim was the same person that performed volunteer duties. This requirement posed challenges for members in not only collection of the data, but also in the secure transmission and storage of that data.

After further consideration, MMIA is changing the requirements for the casual volunteer rosters! The requirements include a legible first and last name along with the volunteers' signature for each volunteer. That's it! No more collecting partial social security numbers or dates of birth.

### What is a casual volunteer anyway?

A casual volunteer is an individual who volunteers for a specific event, for example, a fun run, art walk, park clean-up day or other time-bound event sponsored by a city/town. For casual volunteers to be covered under workers' compensation, a city/town must request a coverage determination from MMIA prior to the event by completing an online application. The application can be found on MMIA's website or by using the following link:

[mmia.net/workers-compensation/request-coverage/](https://mmia.net/workers-compensation/request-coverage/)

MMIA will complete the coverage review and notify the city/town whether coverage has been approved. If approved, MMIA will send an invoice for the additional cost of coverage. Coverage for the event is not bound until the roster and payment of the invoice are received by MMIA.

For questions, please contact Britani Laughery at **406-495-7004** or [blaughery@mmia.net](mailto:blaughery@mmia.net)

## LEGAL ALERT!

In early December, a complaint was filed against the State regarding the constitutionality of SB 323 (Treas), SB 528 (Hertz), SB 245 (Zolnikov) and SB 382 (Mandeville). The League opposed the first three of these bills but helped draft and lobby passage of the latter.

On December 29, Judge Salvagni in the Eighteenth Judicial District (Gallatin County) issued a preliminary injunction against the implementation of SB 323 and SB 528. SB 323 required municipalities with a population of 5,000 or more to allow a duplex as a permitted right in all zones where single-family residential is a permitted use. SB 528 required every municipality in Montana to allow an accessory dwelling unit of a certain size as a permitted right on every lot with a single-family home.

If a municipality has not already enacted any changes to their zoning ordinance to comply with these laws, they are now held in abeyance, and you do not need to do anything at this time. If a municipality has already codified these required changes into its zoning ordinance and this reflects the desired policy of the city or town, then you do not need to do anything at this time. However, if a municipality has already codified these changes into its zoning ordinance but would not have otherwise made these changes absent the passage of SB 323 or SB 528, and the city does not agree with the policies required therein, the city may take steps to repeal or hold such ordinance in abeyance until the lawsuit is resolved.

As to SB 245 and SB 382, both laws remain effective at this time and those municipalities to which they apply must take steps to come into compliance with these laws as set forth therein. For more information visit [www.mtleague.org/2023-legislative-session-land-use-webinars](https://www.mtleague.org/2023-legislative-session-land-use-webinars). We will continue to update you as the case progresses. In the meantime, feel free to contact us with any questions or concerns at [info@mtleague.org](mailto:info@mtleague.org) or **406-442-8768**.



**WORKING TOGETHER**  
FOR MONTANA'S MUNICIPALITIES.

PO Box 6669  
Helena, MT 59604-6669

# LOCAL GOVERNMENT, WE GOT YOU COVERED.

Join us for one or more events designed specifically for local elected officials and municipal professionals in 2024.

Our trainings are tailored to expand your knowledge, enhance your skills, and provide valuable insights into the intricacies of effective governance.

## EXECUTIVE FORUM Feb. 28 - Mar. 1 | Sidney

Free professional development symposium specifically designed for Montana Mayors, CEOs, CAOs, and City Managers.

## MUNICIPAL INSTITUTE May 5 - 9 | Anaconda (Fairmont)

Professional development for municipal clerks, treasurers, finance officers, and elected officials.

## JIM TILLOTSON SERVICE PROGRAM May 8 - 10 | Anaconda (Fairmont)

City/town attorney-specific training regarding current trends in municipal government. CLEs provided!

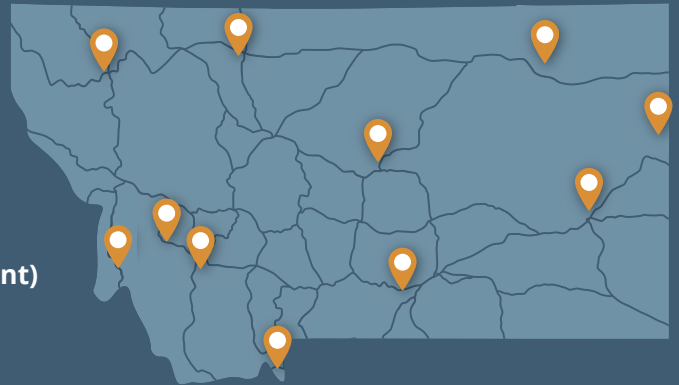
## MUNICIPAL SUMMITS Fort Peck - May 15 | Darby - May 30

Butte - May 31 | Lewistown - June 4 | Choteau - June 11 | AND MORE TO COME

Knowledge and resource-sharing for municipal government officials and professionals.

## LEAGUE CONFERENCE October 2-4 | West Yellowstone

Three days of educational breakout sessions, energizing speakers, and invaluable networking.



We serve all of Montana. That's why we're hosting events across the state to empower those in local government to build strong and vibrant communities. **GO LOCAL!**

