

**Effective 5/10/2016**

**34A-2-407 Reporting of industrial injuries -- Regulation of health care providers.**

- (1) As used in this section, "physician" is as defined in Section 34A-2-111.
- (2)
  - (a) An employee sustaining an injury arising out of and in the course of employment shall provide notification to the employee's employer promptly of the injury.
  - (b) If the employee is unable to provide the notification required by Subsection (2)(a), the following may provide notification of the injury to the employee's employer:
    - (i) the employee's next of kin; or
    - (ii) the employee's attorney.
  - (c) An employee claiming benefits under this chapter or Chapter 3, Utah Occupational Disease Act, shall comply with rules adopted by the commission regarding disclosure of medical records of the employee medically relevant to the industrial accident or occupational disease claim.
- (3)
  - (a) An employee is barred for any claim of benefits arising from an injury if the employee fails to notify within the time period described in Subsection (3)(b):
    - (i) the employee's employer in accordance with Subsection (2); or
    - (ii) the division.
  - (b) The notice required by Subsection (3)(a) shall be made within:
    - (i) 180 days of the day on which the injury occurs; or
    - (ii) in the case of an occupational hearing loss, the time period specified in Section 34A-2-506.
- (4) The following constitute notification of injury required by Subsection (2):
  - (a) an employer's report filed with:
    - (i) the division; or
    - (ii) the employer's workers' compensation insurance carrier;
  - (b) a physician's injury report filed with:
    - (i) the division;
    - (ii) the employer; or
    - (iii) the employer's workers' compensation insurance carrier;
  - (c) a workers' compensation insurance carrier's report filed with the division; or
  - (d) the payment of any medical or disability benefits by:
    - (i) the employer; or
    - (ii) the employer's workers' compensation insurance carrier.
- (5)
  - (a) An employer and the employer's workers' compensation insurance carrier, if any, shall file a report in accordance with the rules made under Subsection (5)(b) of a:
    - (i) work-related fatality; or
    - (ii) work-related injury resulting in:
      - (A) medical treatment;
      - (B) loss of consciousness;
      - (C) loss of work;
      - (D) restriction of work; or
      - (E) transfer to another job.
  - (b) An employer or the employer's workers' compensation insurance carrier, if any, shall file a report required by Subsection (5)(a), and any subsequent reports of a previously reported injury as may be required by the commission, within the time limits and in the manner established by rule by the commission made after consultation with the workers'

compensation advisory council and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. A rule made under this Subsection (5)(b) shall:

- (i) be reasonable; and
  - (ii) take into consideration the practicality and cost of complying with the rule.
- (c) A report is not required to be filed under this Subsection (5) for a minor injury, such as a cut or scratch that requires first aid treatment only, unless:
- (i) a treating physician files a report with the division in accordance with Subsection (9); or
  - (ii) a treating physician is required to file a report with the division in accordance with Subsection (9).
- (6) An employer and its workers' compensation insurance carrier, if any, required to file a report under Subsection (5) shall provide the employee with:
- (a) a copy of the report submitted to the division; and
  - (b) a statement, as prepared by the division, of the employee's rights and responsibilities related to the industrial injury.
- (7) An employer shall maintain a record in a manner prescribed by the commission by rule of all:
- (a) work-related fatalities; or
  - (b) work-related injuries resulting in:
    - (i) medical treatment;
    - (ii) loss of consciousness;
    - (iii) loss of work;
    - (iv) restriction of work; or
    - (v) transfer to another job.
- (8)
- (a) Except as provided in Subsection (8)(b), an employer or a workers' compensation insurance carrier who refuses or neglects to make a report, maintain a record, or file a report as required by this section is subject to a civil assessment:
    - (i) imposed by the division, subject to the requirements of Title 63G, Chapter 4, Administrative Procedures Act; and
    - (ii) that may not exceed \$500.
  - (b) An employer or workers' compensation insurance carrier is not subject to the civil assessment under this Subsection (8) if:
    - (i) the employer or workers' compensation insurance carrier submits a report later than required by this section; and
    - (ii) the division finds that the employer or workers' compensation insurance carrier has shown good cause for submitting a report later than required by this section.
  - (c)
    - (i) A civil assessment collected under this Subsection (8) shall be deposited into the Uninsured Employers' Fund created in Section 34A-2-704 to be used for a purpose specified in Section 34A-2-704.
    - (ii) The administrator of the Uninsured Employers' Fund shall collect money required to be deposited into the Uninsured Employers' Fund under this Subsection (8)(c) in accordance with Section 34A-2-704.
- (9)
- (a) A physician attending an injured employee shall comply with rules established by the commission regarding:
    - (i) fees for physician's services;
    - (ii) disclosure of medical records of the employee medically relevant to the employee's industrial accident or occupational disease claim;

- (iii) reports to the division regarding:
  - (A) the condition and treatment of an injured employee; or
  - (B) any other matter concerning industrial cases that the physician is treating; and
- (iv) rules made under Section 34A-2-407.5.
- (b) A physician who is associated with, employed by, or bills through a hospital is subject to Subsection (9)(a).
- (c) A hospital providing services for an injured employee is not subject to the requirements of Subsection (9)(a) except for rules made by the commission that are described in Subsection (9)(a)(ii) or (iii) or Section 34A-2-407.5.
- (d) The commission's schedule of fees may reasonably differentiate remuneration to be paid to providers of health services based on:
  - (i) the severity of the employee's condition;
  - (ii) the nature of the treatment necessary; and
  - (iii) the facilities or equipment specially required to deliver that treatment.
- (e) This Subsection (9) does not prohibit a contract with a provider of health services relating to the pricing of goods and services.
- (10) A copy of the initial report filed under Subsection (9)(a)(iii) shall be furnished to:
  - (a) the division;
  - (b) the employee; and
  - (c)
    - (i) the employer; or
    - (ii) the employer's workers' compensation insurance carrier.
- (11)
  - (a) As used in this Subsection (11):
    - (i) "Balance billing" means charging a person, on whose behalf a workers' compensation insurance carrier or self-insured employer is obligated to pay medical benefits under this chapter or Chapter 3, Utah Occupational Disease Act, for the difference between what the workers' compensation insurance carrier or self-insured employer reimburses the hospital for covered medical services and what the hospital charges for those covered medical services.
    - (ii) "Covered medical services" means medical services provided by a hospital that are covered by workers' compensation medical benefits under this chapter or Chapter 3, Utah Occupational Disease Act.
    - (iii) "Health benefit plan" means the same as that term is defined in Section 31A-22-619.6.
    - (iv) "Self-insured employer" means the same as that term is defined in Section 34A-2-201.5.
  - (b) Subject to Subsection (11)(d), a workers' compensation insurance carrier or self-insured employer may contract, either in writing or by mutual oral agreement, with a hospital to establish reimbursement rates.
  - (c) Subject to Subsection (11)(d), for the time period beginning on May 10, 2016, and ending on July 1, 2018, a workers' compensation insurance carrier or self-insured employer that is reimbursing a hospital that has not entered into a contract described in Subsection (11)(b) shall reimburse the hospital for covered medical services at 85% of the billed hospital fees for the covered medical services.
  - (d) A hospital may not engage in balance billing.
  - (e) Covered services paid under a health benefit plan are subject to coordination of benefits in accordance with Sections 31A-22-619.6 and 34A-2-213.
- (12)

- (a) Subject to appellate review under Section 34A-1-303, the commission has exclusive jurisdiction to hear and determine:
  - (i) whether goods provided to or services rendered to an employee are compensable pursuant to this chapter or Chapter 3, Utah Occupational Disease Act, including:
    - (A) medical, nurse, or hospital services;
    - (B) medicines; and
    - (C) artificial means, appliances, or prosthesis;
  - (ii) except for amounts charged or paid under Subsection (11), the reasonableness of the amounts charged or paid for a good or service described in Subsection (12)(a)(i); and
  - (iii) collection issues related to a good or service described in Subsection (12)(a)(i).
- (b) Except as provided in Subsection (12)(a), Subsection 34A-2-211(6), or Section 34A-2-212, a person may not maintain a cause of action in any forum within this state other than the commission for collection or payment for goods or services described in Subsection (12)(a) that are compensable under this chapter or Chapter 3, Utah Occupational Disease Act.

Amended by Chapter 242, 2016 General Session