

Superseded 5/10/2016

34A-3-108 Reporting of occupational diseases -- Regulation of health care providers.

- (1) An employee sustaining an occupational disease, as defined in this chapter, arising out of and in the course of employment shall provide notification to the employee's employer promptly of the occupational disease. If the employee is unable to provide notification, the employee's next of kin or attorney may provide notification of the occupational disease to the employee's employer.
- (2)
 - (a) An employee who fails to notify the employee's employer or the division within 180 days after the cause of action arises is barred from a claim of benefits arising from the occupational disease.
 - (b) The cause of action is considered to arise on the date the employee first:
 - (i) suffers disability from the occupational disease; and
 - (ii) knows, or in the exercise of reasonable diligence should have known, that the occupational disease is caused by employment.
- (3) The following constitute notification of an occupational disease:
 - (a) an employer's report filed with the:
 - (i) division; or
 - (ii) workers' compensation insurance carrier;
 - (b) a physician's injury report filed with the:
 - (i) division;
 - (ii) employer; or
 - (iii) workers' compensation insurance carrier;
 - (c) a workers' compensation insurance carrier's report to the division; or
 - (d) the payment of any medical or disability benefit by the employer or the employer's workers' compensation insurance carrier.
- (4)
 - (a) An employer and the employer's workers' compensation insurance carrier, if any, shall file a report in accordance with the rules described in Subsection (4)(b) of any occupational disease resulting in:
 - (i) medical treatment;
 - (ii) loss of consciousness;
 - (iii) loss of work;
 - (iv) restriction of work; or
 - (v) transfer to another job.
 - (b) An employer or the employer's workers' compensation insurance carrier, if any, shall file a report required under Subsection (4)(a) and any subsequent reports of a previously reported occupational disease as may be required by the commission within the time limits and in the manner established by rule by the commission made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, under Subsection 34A-2-407(5).
 - (c) A report is not required:
 - (i) for a minor injury that requires first aid treatment only, unless a treating physician files, or is required to file, the Physician's Initial Report of Work Injury or Occupational Disease with the division;
 - (ii) for occupational diseases that manifest after the employee is no longer employed by the employer with which the exposure occurred; or
 - (iii) when the employer is not aware of an exposure occasioned by the employment that results in an occupational disease as defined by Section 34A-3-103.

- (5) An employer or its workers' compensation insurance carrier, if any, 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 occupational disease.
- (6) An employer shall maintain a record in a manner prescribed by the division of occupational diseases resulting in:
 - (a) medical treatment;
 - (b) loss of consciousness;
 - (c) loss of work;
 - (d) restriction of work; or
 - (e) transfer to another job.
- (7) An employer or a workers' compensation insurance carrier who refuses or neglects to make a report, maintain a record, or file a report with the division as required by this section is subject to citation and civil assessment in accordance with Subsection 34A-2-407(8).
- (8)
 - (a) Except as provided in Subsection (8)(c), a physician, surgeon, or other health care provider attending an occupationally diseased employee shall:
 - (i) comply with the rules, including the schedule of fees, for services as adopted by the commission;
 - (ii) make reports to the division at any and all times as required as to the condition and treatment of an occupationally diseased employee or as to any other matter concerning industrial cases being treated; and
 - (iii) comply with rules made under Section 34A-2-407.5.
 - (b) A physician, as defined in Section 34A-2-111, who is associated with, employed by, or bills through a hospital is subject to Subsection (8)(a).
 - (c) A hospital is not subject to the requirements of Subsection (8)(a) except a hospital is subject to rules made by the commission under Subsections 34A-2-407(9)(a)(ii) and (iii) and 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 (8) does not prohibit a contract with a provider of health services relating to the pricing of goods and services.
- (9) A copy of the physician's initial report shall be furnished to the:
 - (a) division;
 - (b) employee; and
 - (c) employer or its workers' compensation insurance carrier.
- (10) A person subject to reporting under Subsection (8)(a)(ii) or Subsection 34A-2-407(9)(a)(iii) who refuses or neglects to make a report or comply with this section is subject to a civil assessment in accordance with Subsection 34A-2-407(8).
- (11)
 - (a) An application for a hearing to resolve a dispute regarding an occupational disease claim shall be filed with the Division of Adjudication.
 - (b) After the filing, a copy shall be forwarded by mail to:
 - (i)

- (A) the employer; or
- (B) the employer's workers' compensation insurance carrier;
- (ii) the applicant; and
- (iii) the attorneys for the parties.

(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 is compensable pursuant to this chapter and Chapter 2, Workers' Compensation Act, including the following:
 - (A) medical, nurse, or hospital services;
 - (B) medicines; and
 - (C) artificial means, appliances, or prosthesis;
 - (ii) 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 of goods or services described in Subsection (12)(a) that are compensable under this chapter or Chapter 2, Workers' Compensation Act.